

Tuesday  
February 28, 1989

# Food for Thought



The House of Representatives today passed a bill to create a new federal agency to oversee the nation's food and drug supply. The bill, which would create the Department of Food and Drug Administration, is a response to the growing concern over the safety of the food and drug supply.

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Federal Register

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 550

#### Pay Differentials

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** The Office of Personnel Management (OPM) is adopting as final its interim regulation pertaining to hazard/physical hardship duty pay for employees participating in environmental thermal-chamber tests. The interim regulation established a 25 percent pay differential for General Schedule employees participating in these tests. This rule is required by Public Law 89-512, which established hazardous duty pay for General Schedule employees.

**EFFECTIVE DATE:** March 30, 1989.

**FOR FURTHER INFORMATION CONTACT:** Don Paquin, (202) 632-7858.

**SUPPLEMENTARY INFORMATION:** On September 21, 1988, OPM published an interim regulation in the Federal Register (53 FR 183) which established a hazard/physical hardship pay differential category for General Schedule employees exposed to the physical hardships and hazards of environmental thermal-chamber tests. The pay differential was set at 25 percent. The interim regulation was effective as of May 4, 1988.

No comments were received during the comment period.

### E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

#### Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a

substantial number of small entities because it is a change which affects only employees of the Federal Government.

Accordingly, the interim regulation amending Appendix A to Subpart I, Part 550, 5 CFR, that was published at 53 FR 183 on September 21, 1988, is adopted as a final rule without change.

U.S. Office of Personnel Management.  
Constance Horner,  
Director.

[FR Doc. 89-4616 Filed 2-27-89; 8:45 am]  
BILLING CODE 6325-01-M

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. 88-158]

#### Imported Fire Ant Regulated Areas

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Interim rule.

**SUMMARY:** We are amending the imported fire ant quarantine and regulations by quarantining the state of Tennessee, and by designating all or portions of the following as generally infested areas: two counties in Tennessee, one county in Arkansas, six counties in Mississippi, and three counties in Texas.

This action expands the regulated areas and imposes certain restrictions on the interstate movement of regulated articles. It is necessary to prevent the artificial spread of the imported fire ant.

**DATE:** Interim rule effective February 28, 1989. Consideration will be given only to comments postmarked or received on or before May 1, 1989.

**ADDRESSES:** Send an original and two copies of written comments to Helene R. Wright, Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, Room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 88-158. Comments received may be inspected at USDA, 14th and Independence Avenue SW., Room 1141—South Building, Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

#### FOR FURTHER INFORMATION CONTACT:

Eddie Elder, Chief Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, USDA, Room 643, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8247.

#### SUPPLEMENTARY INFORMATION:

##### Background

The imported fire ant quarantine and regulations (contained in 7 CFR 301.81 *et seq.*, and referred to below as the regulations) restrict the interstate movement of regulated articles from regulated areas in designated states to prevent the artificial spread of the imported fire ant. The imported fire ant (*Solenopsis spp.*) is an insect that interferes with farming operations, can cause damage to certain crops, and is a pest of livestock, pets, and people in rural and urban areas. Before publication of this document, the quarantined states included: Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, Puerto Rico, South Carolina, and Texas.

Under the regulations, an area is designated as a regulated area if the imported fire ant has been found there, or if reason exists to believe the imported fire ant is present there.

Regulated areas are designated as either generally infested areas or suppressive areas. Suppressive areas are those areas where eradication of the imported fire ant is being undertaken as an objective. Generally infested areas are all other regulated areas.

Restrictions are imposed on the interstate movement of regulated articles from regulated areas to prevent the artificial movement of the imported fire ant into noninfested areas, and to prevent further infestation of suppressive areas.

#### Quarantined States; Designation of Areas as Generally Infested Areas

We are amending § 301.81(a) of the regulations by adding Tennessee to the list of quarantined states. We are also amending § 301.81-2a by designating all or portions of the following counties as generally infested areas: Hardin and McNaire Counties in Tennessee; Lincoln County in Arkansas; Benton, Lafayette, Marshall, Panola, Tallahatchie and Tate Counties in Mississippi; and Hopkins, Llano and Mason Counties in Texas.



See the rule portion of this document for specific descriptions of the newly designated infested areas.

This action is necessary because surveys conducted by inspectors of the United States Department of Agriculture and officials of state agencies have established that the imported fire ant has spread to these areas. Eradication of the imported fire ant is not being undertaken as an objective in these areas, and therefore, as an emergency measure, we are adding them to the list of imported fire ant generally infested areas.

#### Emergency Action

James W. Glosser, Administrator of the Animal and Plant Health Inspection Service, has determined that a situation exists that warrants publication of this rule without prior opportunity for public comment. Because the imported fire ant could be spread artificially to noninfested areas of the United States, it is necessary to act immediately to control its spread.

Since prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest under these conditions, there is good cause under 5 U.S.C. 553 for making this interim rule effective upon publication of this document in the *Federal Register*. We will consider comments postmarked or received within 60 days of publication. A final rulemaking document discussing any comments received and any amendments we make to this interim rule as a result of these comments will be published in the *Federal Register*.

#### Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect of less than \$100 million; will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

This action affects the interstate movement of regulated articles from

specified areas in Arkansas, Mississippi, Tennessee and Texas. Thousands of small entities move these articles interstate from these states, and many more thousands of small entities move these articles interstate from other states.

However, based on information compiled by the Department, we have determined that approximately 33 small entities within the newly regulated areas move articles interstate from the specified areas in those states. Further, the overall economic impact from this action is estimated to be approximately \$3,000.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

#### Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with state and local officials. (See 7 CFR 3015, Subpart V.)

#### Paperwork Reduction Act

This interim rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects in 7 CFR Part 301

Agricultural commodities, Imported fire ant, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation.

#### PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, 7 CFR 301.81 is amended as follows:

1. The authority citation for Part 301 continues to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff, 161, 162, and 164-167; 7 CFR 2.17, 2.51, and 371.2(c).

##### § 301.81 [Amended]

2. Section 301.81, paragraph (a) is amended by adding "Tennessee," immediately after "South Carolina."

##### § 301.81-2a [Amended]

3. Section 301.81-2a is amended by adding the following areas for Mississippi, Tennessee, and Texas:

§ 301.81-2a Regulated areas; suppressive and generally infested areas.

#### Mississippi

(1) Generally infested areas.

Tate County. That portion of the county lying east of the west line of R. 7 W.

#### Tennessee

(1) Generally infested areas.

Hardin County. That portion of the county south U.S. Highway 64.

McNairy County. That portion of the county south of U.S. Highway 64.

McNairy County. That portion of the county south of an imaginary line from the point where U.S. Highway 64 enters the east side of the county from Hardin County to the point where U.S. Highway 64 exits the west side of the county at the Hardeman County line.

(2) Suppressive areas. None.

#### Texas

(1) Generally infested areas.

Hopkins County. The entire county.

Mason County. The entire county.

4. Section 301.81-2a is amended further by revising the entries for the following counties in Arkansas, Mississippi, and Texas to read as follows:

#### Arkansas

(1) Generally infested areas.

Lincoln County. That portion of the county south of south line T. 9 S. and west of State Road 81, including all of the incorporated city limits of Star City.

#### Mississippi

(1) Generally infested areas.

Benton County. The entire county.

Lafayette County. The entire county.

Marshall County. That portion of the county lying south of the north line of T. 4 S.

Panola County. That portion of the county lying east of the west line of R. 7 W.

Tallahatchie County. That portion of the county lying east of the west line of R. 2 W.

#### Texas

(1) Generally infested areas.

Llano County. The entire county.



Done at Washington DC, this 23rd day of February 1989.

James W. Glosser,  
Administrator, Animal and Plant Health  
Inspection Service.

[FR Doc. 89-4625 Filed 2-27-89; 8:45 am]

BILLING CODE 3410-34-M

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 2

#### Informal Hearing Procedures for Materials Licensing Adjudications

**AGENCY:** Nuclear Regulatory  
Commission.

**ACTION:** Final rule.

**SUMMARY:** The Nuclear Regulatory Commission is amending its regulations to provide rules of procedure for the conduct of informal adjudicatory hearings in materials licensing proceedings. The Atomic Energy Act of 1954 requires that the NRC afford an interested person, upon request, a "hearing," in any proceeding for the granting, suspending, revoking, or amending of an NRC license, including a license involving source, byproduct, and special nuclear materials. The Commission previously has determined that the "hearing" provided for a materials licensing proceeding need not encompass all the procedures in NRC regulations that currently govern more formal adjudications for the licensing of reactor facilities. Rather, the Commission has determined that, in most instances, an informal hearing with an opportunity to present written views is sufficient to fulfill this requirement. The final rule prescribes the procedures that would govern these informal proceedings.

**EFFECTIVE DATE:** March 30, 1989.

**FOR FURTHER INFORMATION CONTACT:** Paul Bollwerk, Senior Attorney, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 492-1634.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On May 29, 1987 (52 FR 20089-20096), the Nuclear Regulatory Commission published in the *Federal Register* proposed amendments to its Rules of Practice (10 CFR Part 2) that would specify the particular procedures applicable to informal adjudicatory hearings. In accordance with section 189a of the Atomic Energy Act of 1954 (AEA) (42 U.S.C. 2239(a)), informal hearings are conducted upon the request of any person whose interest may be

affected by a nuclear materials licensing proceeding. *Kerr-McGee Corp.* (West Chicago Rate Earths Facility), CLI-82-2, 15 NRC 232 (1982), *aff'd sub nom. City of West Chicago v. NRC*, 701 F.2d 632 (7th Cir. 1983) [both hereinafter referred to as *West Chicago*]. On July 24, 1987, the date for submitting comments on the proposed rule was extended to August 28, 1987 (52 FR 27621).

As proposed, the informal hearing procedures differ substantially from the existing regulations in 10 CFR Part 2, Subpart G that govern the conduct of NRC formal, trial-type adjudications. Specifically, the presiding officer is to receive and to make his or her determination based solely upon a "hearing file" compiled by the NRC staff, which need not be a party to the proceeding, and written presentations by the parties. There would be no discovery. Only if the presiding officer found that the written presentations were insufficient to create an adequate record would oral presentations be permitted. Any examination of those making oral presentations would be limited strictly by the presiding officer. The type of cross-examination by the parties that generally is permitted in formal adjudications would be prohibited. Essentially, the informal hearing is designed to elicit information and resolve issues primarily through inquiry by the presiding officer rather than through an adversarial confrontation between the parties. As a consequence, the presiding officer has broad discretion in controlling the manner in which the issues raised by the parties are to be explored.

##### II. Comments and Commission Responses

The Commission received twelve letters of comment representing a broad spectrum of interested persons. Commenters included private corporations that hold NRC materials licenses, a trade association representing companies holding NRC materials licenses, private counsel that represent NRC reactor and materials licensees, public interest groups, a local governmental entity, and an individual member of the public. Seven of the commenters expressed general support for the proposed rules and provided specific comments and suggestions on particular provisions. Three commenters opposed the rules as providing insufficient procedural protections for intervening parties. Two other commenters opposed the rules as unnecessarily formalizing the hearing process for materials licensing adjudications. A review of the specific

comments and the Commission's responses to those comments follows.

##### A. General Comments

##### 1. Hearing Procedures Are Too Formal

Several commenters who are materials licensees or who represent materials licensees expressed concern that the proposed informal procedures were unnecessary or too formal. One commenter suggested that, given the small number of materials licensing hearing requests received by the Commission over the past several years, the Commission need only continue its present practice. That practice, which has been in effect since the first informal hearing in the 1982 *West Chicago* proceeding, is to issue an order in response to each materials licensing hearing request that establishes the procedures governing that informal hearing. The Commission disagrees. Its practice of issuing individual orders has allowed the agency to gain valuable practical experience in conducting informal adjudications, experience that is reflected in the provisions of this final rule. The small number of hearing requests explains in part the delay in the Commission's promulgation of this final rule in that it has taken longer to gain the relevant experience that has guided it in formulating appropriate procedures. However, it ultimately is not a sufficient counterweight to the prudent observation of the United States Court of Appeals for the Seventh Circuit in its *West Chicago* decision, 701 F.2d at 645, that the interests of all concerned in the hearing process are better served if the agency formulates regulations that make it clear what procedures will apply to all informal proceedings. This is particularly so given the large number of materials licensing actions the Commission takes each year that potentially are subject to hearing requests.

This commenter also asserted that the proposed informal procedures should not be adopted because the adjudicatory format is not suited to the resolution of technical questions and, in any event, the existence of two sets of procedures, one for informal proceedings and one for formal proceedings, inevitably will lead intervenors to complain that their allegations require the use of the more extensive formal procedures. Regarding the issue of the suitability of "adjudicatory" procedures, the commenter appears to be questioning the advisability of using a trial-type, adversary format, as opposed to more legislative-type, informal procedures, to resolve technical disputes. In its



proposed rule, however, the Commission has sought to strike a necessary balance between these two poles. Recognizing that interested persons within the meaning of AEA section 189a are statutorily afforded the status of "parties" with an opportunity to participate in a hearing,<sup>1</sup> the rules allow participation though written and, in limited circumstances, oral submissions by which a challenged licensing action can be supported or opposed. On the other hand, cognizant that these materials licensing hearings need not adhere to the Administrative Procedure Act's (APA) adversary trial model set forth in the formal hearing provisions of 5 U.S.C. 556-557, the Commission has attempted to enhance the role of the presiding officer as a technical fact finder by giving him or her the primary responsibility for controlling the development of the hearing record beyond the initial submissions of the parties. Further, the Commission does not believe that the mere existence of a set of informal procedures will lead to an erosion of the distinction between formal and informal proceedings or lead to undue confusion about when the use of either type of proceeding is appropriate. See generally *Sequoyah Fuels Corp.* (Sequoyah UF6 to UF4 Facility), CLI-86-17, 24 NRC 489 (1986) (Commission declines to accept presiding officer's suggestion to convert informal hearing to formal proceeding).

## 2. Hearing Procedures are Too Informal

In contrast to the comments discussed above, several individuals and public interest groups asserted that the Commission's proposed informal procedures were too "informal." In particular, these commenters decried the failure of the rules to provide for discovery or for wide-ranging cross-examination by parties to the proceeding.

Parties generally have no right to discovery even in APA "on the record" hearings, unless discovery procedures are authorized by agency regulations. Further, because the Commission is not required to conduct an APA "on the record" hearing in a materials licensing case, the parties in these cases have no right to cross-examination under the Commission's "on the record" hearing procedures in 10 CFR Part 2, Subpart G. Nor does the Commission believe these measures are necessary to afford the

parties a full and fair hearing. Although there is no discovery, the proposed rules do provide that the NRC staff is to create and update a hearing file consisting of the materials relevant to the licensing proceeding, including the application and any amendments to the application, any environmental assessment or impact statement, and any NRC report or correspondence between the NRC and the applicant relating to the application. In addition, if an oral presentation is found by the presiding officer to be an appropriate aid to fact-finding, the presiding officer is given the authority to pose to witnesses questions that have been suggested by the parties. This is not the type of cross-examination usually associated with formal adjudicatory proceedings, as is described in more detail in the discussion that follows; nonetheless, it still provides the parties in the context of this more informal proceeding with an opportunity to raise questions with the presiding officer about a witness' testimony.

## B. Comments Relating to Specific Provisions of the Proposed Rule

### 1. Proposed § 2.1201—Scope of Proceeding

One Commenter has raised two concerns about § 2.1201 of the proposed rule, which describes those materials licensing actions for which informal hearings are provided. This commenter pointed out that in previous instances involving a request under 10 CFR 20.302 for agency approval of proposed procedures for the disposal of very low-level radioactive waste not covered by 10 CFR Part 61, the Commission has authorized the use of informal hearing procedures and suggested this does not appear to be covered by proposed § 2.1201. An authorization under § 20.302, which is not referred to specifically in § 2.1201, generally comes about as an amendment to an existing byproduct, source, or special nuclear material license issued under Part 30, 40, or 70. As an amendment for authorization to dispose of materials held under an existing materials licenses, rather than a request for a license to operate a waste disposal facility under 10 CFR Part 61, this authorization clearly falls within § 2.1201. The same would be true of various other Part 20 authorizations, which relate to a license issued under Part 30, 40, or 70. *E.g.*, 20.105(a). Accordingly, no specific reference is required in § 2.1201 to cover these authorizations.

This commenter also suggested this provision is too broad because it states

that formal hearing procedures are applicable to those adjudications instituted in response to a notice of proposed action issued under 10 CFR 2.105(a)(7) for "any other license or amendment as to which the Commission determines that an opportunity for a public hearing should be afforded." However, as the Commission's *West Chicago* decision makes clear, the notice of proposed hearing referenced in § 2.105(a)(7) is one that is issued when the Commission has determined the public interest requires a formal hearing. *West Chicago*, 15 NRC at 244-46. Accordingly, the provision correctly reflects that hearings commenced in response to a notice of proposed action issued under § 2.105(a)(7) will, in accordance with § 2.700, be conducted under the formal hearing procedures of Subpart G.

### 2. Proposed § 2.1203—Docket, Filing, and Service

Section 2.1203 establishes the administrative requirements for the docket and the filing and service of documents in each proceeding. One commenter recommended that the rule set out requirements for documents in terms of size, signatures, numbers of copies, etc. A new paragraph (c) implements this suggestion. The provisions of § 2.711 relating to the extension and reduction of time limits are referenced in paragraph (d).

This commenter also suggested that this section incorporate the requirements of § 2.712 relating to service of documents. The proposed § 2.1203(d), which leaves it up to the presiding officer in the first instance to set any rules for service of documents, was intended to add to the informality of the proceedings. After further consideration, however, the Commission concludes that establishing rules for routine matters such as document service contributes to the efficient conduct of the proceeding for both the parties and the presiding officer. Accordingly, the Commission has added language to that paragraph, which is now designated as (e), referencing the requirements of § 2.712.

### 3. Proposed § 2.1205—Request for a Hearing; Petition for Leave to Intervene

This provision, which describes how a request for a hearing or a petition to intervene is to be lodged and treated by the agency, was the subject of a number of comments that are discussed below according to subject matter.

a. *Notice of materials licensing actions/timing of hearing requests.* In the proposed rule, the Commission

<sup>1</sup> Because an interested person has a statutory right to request and receive a hearing on those materials licensing actions specified in AEA section 189a, the Commission cannot, as one licensee appeared to suggest, simply decline to convene any materials licensing hearings.



described its long-standing practice of limiting Federal Register notice for the thousands of material licensing applications it receives annually to those that are significant. For those applications for which no Federal Register notice is published, proposed § 2.1205(c) provided that a hearing petition would be considered timely if filed within thirty days after the petitioner receives actual notice of a licensing action or within one year after completion of the agency action, whichever occurs first. Section 2.1205(c) also declared any petition filed beyond this period would be considered timely only upon a showing of exceptional circumstances. In response, several commenters asserted that the agency's notice practice was improper and urged that Federal Register notice be given for each materials license application received. Other commenters, principally materials licensees or their legal counsel, challenged the provisions allowing timely hearing petitions to be filed up to one year after the licensing action and permitting subsequent petitions upon an "exceptional circumstances" showing. Allowing up to one year to file a challenge leaves licensed activities under an unnecessary cloud, they assert. Instead, the period for filing should be shortened to 120 days or less. Also, they contend, the exceptional circumstances provision should be deleted in favor of a provision that mandates that after the period for filing a petition expires the appropriate challenge to a licensing action is to file a petition for enforcement or other appropriate relief under 10 CFR 2.206.

The Commission continues to believe that its present practice regarding Federal Register notice for materials licensing applications comports with all applicable legal requirements and, under the circumstances, is appropriate in terms of the allocation of agency resources. As noted in the proposed rule, the Atomic Energy Act does not require that any notice be given of a materials licensing action. Given the lack of any constitutional right to a hearing in the usual materials licensing case, see *West Chicago* at 645, the Commission does not agree with the argument that there is a general constitutional right to notice of the opportunity for such a hearing.<sup>2</sup>

Further, the publication of notices for all materials licensing activities cannot be justified as a judicious use of limited agency resources. Under present practice, notice is given of significant

materials licensing actions through a Federal Register notice relating to the receipt of the application or to NRC environmental findings relating to the licensing request (e.g., a negative declaration of the need to prepare an environmental impact statement). Also, those persons truly interested in a particular materials licensee's activities can keep abreast of pending matters by periodically contacting appropriate NRC headquarters or regional personnel for information concerning the license. With these vehicles in place for providing the public with information concerning materials licensing actions, the Commission does not believe it is necessary or prudent to expend the substantial additional agency resources that would be needed to publish notices in the Federal Register for each of the approximately five thousand materials licensing actions the agency takes on average every year. See *NRC 1987 Annual Report* at 73. In addition to the staff resources that would be required to prepare the notices, the NRC staff estimates that it would cost in excess of one hundred thousand dollars annually simply to pay the cost of publishing notices in the Federal Register for all these actions. The Commission also finds the alternative notice suggestion made by one commenter unacceptable. Similar or higher costs to the agency could be expected if the agency published notices in local newspapers.

On the related question of the timing of a hearing request when there is no Federal Register notice, the Commission agrees with the comments that a lesser period of time may be appropriate for accepting hearing requests as timely. Balancing the interests of materials licensees in prompt closure for potential licensing action challenges against the public interest in allowing a reasonable opportunity for "interested persons" to avail themselves of their section 189a hearing right, we find that allowing an initial hearing request to be filed for a period of six months after a materials licensing action not noticed in the Federal Register is appropriate.

The Commission does not agree with the comment that any hearing request or petition to intervene filed after the six-month period should be treated only as a petition under 10 CFR 2.206. In determining under what circumstances the agency will entertain a late-filed petition, consideration undoubtedly must be given to the fact that the hearing provisions in the Atomic Energy Act suggest a congressional policy fostering a degree of citizen participation in specified types of nuclear licensing proceedings. See *Long*

*Island Lighting Co.* (Shoreham Nuclear Power Station, Unit 1), ALAB-743, 18 NRC 387, 396 n.37 (1983). On the other hand, it is apparent that whether to provide for further admission of late-filed petitions and the terms under which they will be admitted ultimately is a matter committed to the agency's discretion.

In most instances, materials licensing actions do not involve substantial hazards to public health and safety. After weighing the matter carefully, we have concluded that, in the context of materials licensing, considerations of regulatory finality counsel that the Commission place a heavy burden upon those who wish to institute a hearing proceeding more than six months after the agency has approved the applicant's request for licensing action. Therefore, to avoid the litigation of stale claims, in lieu of the reference in § 2.1205(c) to the grant of a late-filed initial hearing petition on a showing of "exceptional circumstances" and the language of § 2.1205(k) that provided for the use of the formal hearing late-filed petition factors in § 2.714(a)(1), the Commission has substituted new language in § 2.1205(k). The paragraph now states that to gain admission of a late-filed request, whether an initial request or a petition to intervene, the requestor or intervenor will have the heavier burden of establishing that (1) the delay in filing the hearing request or intervention petition was excusable; and (2) the grant of the hearing request or intervention petition, which institutes a hearing proceeding to explore the efficacy of the agency's licensing action, will not cause undue prejudice or injury to any participant to the proceeding, including the applicant and the NRC staff if the staff chooses to be a party. Essentially, the paragraph requires that the requestor or petitioner demonstrate that the well-established doctrine of "laches" would not bar the institution of a proceeding. Additionally, this provision has been revised to state that any untimely hearing request or intervention petition that cannot overcome this laches bar will be referred for disposition in accordance with 10 CFR 2.206.

Also on the subject of notice, one commenter suggested that the Commission clarify the meaning of § 2.1205(c)(1) to make it clear that the first Federal Register notice relating to a materials licensing application, including a notice about activities under the National Environmental Policy Act, triggers the thirty-day period within which a hearing request must be filed in order to be timely. The Commission has

<sup>2</sup> As explained below, notice is given of those particular materials licensing actions that are more significant.



done so. The Commission would add that, in response to the suggestion of one commenter, it has revised the rule to state that for an initial Federal Register notice regarding a particular application or licensing action, the notice must include a statement that the opportunity for a hearing exists under the procedures set forth in Subpart L.

In addition, this commenter requested that the provisions of § 2.1205(c)(2) concerning "actual notice" be changed to indicate that timeliness determinations will be based on whether the petitioner either knew or should have known of the pending licensing application or action. A finding that the petitioner should have known would be based upon such factors as newspaper accounts. The Commission declines to adopt this suggestion. If a Federal Register notice has not been published, a determination about whether and when a petitioner otherwise had actual notice should be based upon the petitioner's particular factual situation rather than presumptions about what other than Federal Register publication provides constructive notice, as the commenter seems to contemplate. Moreover, to aid in making that determination the Commission has, as the same commenter suggested, provided in paragraph (d) to this section that the request for a hearing should detail the circumstances that establish, in accordance with paragraph (c), that the request is timely. With that information, as well as any answer from the applicant or the NRC staff (if it participates as a party), and any additional information requested from the participants, a presiding officer should be able to make an informed determination about when a petitioner (which in the case of partnership, corporation, or unincorporated association would include its directors, officers, and any members duly authorized to represent it) had actual notice. We note that under § 2.1205(j) the additional requirement of a showing of timeliness also would ordinarily apply to those seeking to intervene pursuant to a Federal Register notice of hearing. These intervenors would ordinarily have to show that they did not have actual notice of the licensing action prior to the notice of hearing.

**b. Standing.** Paragraph (g) of proposed § 2.1205 states that in determining whether a particular petitioner has standing to participate in an informal adjudication, the presiding officer is to consider whether the judicial standard for standing is met. The presiding officer's determination is to be based

upon the standards that are enunciated in § 2.714 for formal adjudications. The Commission indicated that the standing decision should be based upon an analysis of the particular material that was the subject of the licensing action and not the "fifty-mile radius" rule that had developed with respect to power reactor licensing proceedings. (52 FR at 20090). Several commenters agreed with the Commission's rejection of the fifty-mile standard for materials licensing. One commenter went on to suggest that instead the Commission should create a presumption that anyone residing (and presumably working) outside of a five-mile radius of the site where the nuclear materials in question are possessed does not have standing. The Commission rejects this suggestion. The standing of a petitioner in each case should be determined based upon the circumstances of that case as they relate to the factors set forth in paragraph (g).

**c. Litigation subject matter.** At the suggestion of a commenter, the Commission has added language to paragraph (g) indicating that in addition to making a standing determination with respect to granting a hearing petition, or, by reason of its incorporation in paragraph (j), an intervention petition, the presiding officer should rule upon whether the petitioner desires to litigate matters that are germane to the proceeding and whether the hearing request is timely. Further in this regard, to clarify exactly what information a petitioner must supply in its hearing or intervention request, the Commission has revised paragraph (d) to state that the petitioner must provide a concise statement of the areas of concern the requestor desires to raise at the hearing. This statement of concerns need not be extensive, but it must be sufficient to establish that the issues the requester wants to raise regarding the licensing action fall generally within the range of matters that properly are subject to challenge in such a proceeding. It should be added that a similar requirement has been provided for those who wish to request nonparty participation status under § 2.1211(b).

**d. Intervention.** Section 2.1205(i) of the proposed rule states that if a request for a hearing was granted and no previous Federal Register notice has been published, a notice of hearing is to be put in the Federal Register that, among other things, will indicate that any additional hearing requests relating to the licensing proceeding should be filed within thirty days. One commenter has suggested that this should be changed simply to a reference to paragraph (c) of the same section, which provides for the

filing of hearing requests, so as not to "encourage" additional hearing demands. The Commission disagrees with this comment because it misconstrues the purpose of this provision. In instances when a Federal Register notice previously has not been issued relating to a materials licensing action, once a hearing request regarding that action has been received and granted, it is in the agency's interest to ensure that only one proceeding need be conducted. The purpose of this provision is to provide constructive notice to all interested persons of the date by which any further hearing requests must be filed, thereby cutting off any intervenor's later assertion of timeliness based upon lack of actual notice.

Citing previous Licensing Board practice in individual informal proceedings, *see, e.g.*, 51 FR 8920; March 14, 1986, one commenter also suggested that the rules provide the presiding officer with the authority to require that a petition to intervene must include particular information on the intervenor's concerns about the materials licensing action, like that required by § 2.1233 for the intervenor's written presentation. This type of requirement likely is not practicable under the present regulatory scheme. Under the Licensing Board's practice (which the comments of this and other commenters regarding the creation of a hearing file make it apparent they disliked), the applicant was responsible for assembling a hearing file and making it available to potential intervenors "immediately" upon the receipt of the notice granting an initial hearing request. As the Licensing Board's notices make clear, immediate action was necessary to allow additional intervenors to file a detailed petition/initial written presentation within thirty days. 51 FR at 8921, March 14, 1988. As is discussed *infra*, the present scheme gives the NRC staff the duty of compiling the hearing file within thirty days of the grant of an initial hearing request, the same period of time within which any intervenor must file a petition. It would not be equitable to require an intervenor to file its written presentation setting forth all its concerns without access to the hearing file. Of course, the intervenor is required to identify the areas of concern it wishes to raise in the proceeding, which will provide the presiding officer with the minimal information needed to ensure the intervenor desires to litigate issues germane to the licensing proceeding and therefore should be allowed to take the additional step of making a full written presentation under § 2.1233.



e. *Staff licensing action during pendency of a hearing.* In explaining its proposed rule, the Commission declared that after weighing the private and governmental rights involved, it concluded it would not require the completion of any requested hearing before the NRC staff could take the licensing action requested by the applicant. Section 2.1205(1) memorializes this determination. Although one commenter questioned this conclusion, the Commission continues to believe that it has struck the appropriate balance, particularly since a process has been provided in § 2.1263 whereby the staff's action can be stayed, if appropriate.

Another commenter declared that the Commission should revise the language of paragraph (1) to indicate that the staff, rather than "need not" delay in issuing the license, is obligated to proceed in the absence of a stay. The Commission declines to adopt this suggestion. The purpose of this provision is to indicate that in the face of a hearing request it was permissible for the staff to proceed to act in a particular proceeding if, in its judgment, the action was appropriate. As indicated previously, the Commission certainly contemplates that when the staff is able to reach a positive conclusion about the safety and environmental consequences of a proposed licensing request, it will take action despite a pending hearing request. The determination about whether or not it is appropriate to proceed with a particular licensing action prior to the conclusion of the proceeding before the presiding officer is left to the NRC staff, based on its technical and administrative judgment.

#### 4. Proposed § 2.1209—Presiding Officer's Powers

One commenter questioned whether two of the powers afforded presiding officers by § 2.1209 are appropriate. The first of these is the power under paragraph (d) to certify issues to the Appeal Board. We have concluded it is, for the reasons discussed more fully *infra*. The other is the power to subpoena documents or witnesses afforded by paragraph (h). This is improper, the commenter declares, because it would invite discovery requests. The Commission does not agree. The purpose of this provision is to make it clear that the presiding officer has the authority under AEA section 161c, 42 U.S.C. 2201(c), to issue a subpoena for documents or witnesses if, in the course of conducting the proceeding, he or she determines that the information is necessary for the full and fair exploration of the issues

involved and finds that the information will not be supplied voluntarily. The issuance of such an order is solely within the power and discretion of the presiding officer. Therefore, contrary to the commenter's suggestion, there is no need for the procedures that govern subpoena requests as in formal hearings.

#### 5. Proposed § 2.1211—Nonparty Participation

As in formal hearings, the Commission has provided for nonparty participation in informal adjudications by "interested" state and local governments and by limited appearance statements for interested groups and individuals. One commenter protested that the statement in § 2.1211(a) that "[a] limited appearance statement is not to be considered part of the decisional record" is evidence of the undue restraints being placed upon public participation in informal adjudications compared to formal hearings. This language, however, is merely a restatement of the practice followed in formal proceedings with respect to limited appearance statements.

Other commenters suggested that paragraph (b) concerning participation by interested state and local governments be revised to include a standing requirement and to mandate that these entities request permission to participate within thirty days of the grant of a hearing request. The Commission declines to adopt the first suggestion. As in formal adjudications under § 2.715(c), there is no formal "standing" requirement for "interested state" participation in informal hearings; those state and local governmental entities that can demonstrate a cognizable interest in the licensing proceeding should be allowed to participate under § 2.1211(b). See *Exxon Nuclear Co.* (Nuclear Fuel Recovery and Recycling Center), ALAB-447, 6 NRC 873 (1977).

On the other hand, as Commission precedent relating to formal proceedings suggests, interested governmental entities that do seek to come into a proceeding generally must comply with any rules relating to timely intervention. See *Cleveland Electric Illuminating Co.* (Perry Nuclear Power Plant, Units 1 & 2), CLI-86-20, 24 NRC 518 (1986). As a consequence, the Commission has added language to § 2.1211(b) declaring that in instances in which Federal Register notice has been given under § 2.1205(c)(1), a request for § 2.1211(b) participation must be filed within thirty days of an order granting a request for a hearing. Alternatively, if no notice has been issued, the request for participation must be filed within thirty

days of the notice of hearing issued under § 2.1205(i). By adding these specific provisions relating to the time of § 2.1211(b) participation requests, the Commission intends to ensure that all § 2.1211(b) participants become involved in the proceeding from its inception, thereby maximizing their participation while minimizing the possibility for later delay.

#### 6. Proposed § 2.1231—Hearing File

Unique to the informal proceeding is the hearing file that is required by § 2.1231. That file is to be compiled by the NRC staff and provided to the presiding officer, the applicant, and all parties and § 2.1211(b) participants to the proceeding. It is to consist of the application for licensing action and any amendment to the application; any NRC safety, environmental, or other reports relating to the application; and any relevant correspondence between the NRC and the applicant. Commenters raised questions about how and when the file is to be made available to those involved in the proceeding and about the protections that would be afforded to proprietary and other sensitive information that documents in the file might contain.

The Commission previously has addressed one commenter's observation that providing the NRC staff thirty days to prepare and make the file available will impinge on the existing Licensing Board practice of requiring a joint intervention petition/initial written presentation. See IIB.3.d. *supra*. The thirty-day period is retained, subject to adjustment by the presiding officer as the circumstances of a particular case may require.

This commenter also questioned whether the requirement to make the hearing file "available" to parties and § 2.1211(b) participants would mandate that the NRC staff serve the file upon them, with the attendant costs in instances when the file is large. The proposed rule did envision that service of the file might be one way to make it available, depending on the size of the file. As the commenter points out, another way would be to make it available locally. To clarify what is meant by "available," we have revised paragraph (a) to make it clear that service upon the parties and § 2.1211(b) participants and local availability are alternative means of fulfilling this requirement. Which method the NRC staff chooses undoubtedly will depend on the circumstances of the proceeding.

This commenter also expressed strong reservations about the proposed rule's requirement that the applicant would be



responsible for making the file publicly available locally. After careful consideration we have decided to shift this responsibility to the NRC staff, with the understanding that if this "availability" option is chosen, the file need be maintained only through the end of the licensing proceeding. And, if the staff chooses to use service as the means of making the file available to participants in the proceeding, requests for the file by other members of the public do not require that arrangements for local availability must be made. Instead, these requests can be handled through the usual NRC process for making public documents available.

The matter of protecting proprietary and other sensitive information relating to a licensing action was raised by another commenter. Although the plain language of § 2.790 appears to cover this issue for materials licensing proceedings, to eliminate any ambiguity in this regard we have included a reference to that provision in § 2.1203(a).

#### 7. Proposed § 2.1233—Written Presentations

An important difference between the informal hearing provided for in Subpart L and the formal proceeding conducted under Subpart G is the written presentation outlined in § 2.1233. The Commission contemplates that in the vast majority of cases these presentations and follow-up written questions, rather than an oral hearing before the presiding officer, will be the vehicle by which the parties and any § 2.1211(b) participants are heard and the issues resolved.

Commenter concerns about this provision centered on issues of timing, that is, when will written presentations be required to be submitted. Section 2.1233 as proposed stated that the timing and sequence of these presentations is to be set by the presiding officer after any notice of hearing and after the NRC staff has made the hearing file available to the parties. One commenter suggests that the provision be reworded to make it clear that an order establishing the schedule for written submissions may be issued before the end of the thirty-day period that the staff has to make the hearing file available. The commenter repeats its plea that this is necessary to allow for the continuation of the Licensing Board practice of having intervention petitions include the information required for the initial written presentation. The Commission adopts the suggested wording change. As indicated previously, however, because the NRC staff rather than the applicant is now responsible for compiling and making available the

hearing file, the Commission doubts that a joint intervention/written presentation filing will be appropriate in most instances. See II.B.3.d. *supra*.

In this regard, the Commission has not adopted the suggestion of another commenter that the rule contain language setting specific time frames within which an initial presentation and any reply thereto must be filed after the date the hearing file is made available. While the Commission endorses the concept that written presentations should be made as promptly as possible, the Commission continues to believe that the presiding officer will be in the best position to set a schedule based upon his or her review of the issues raised in each hearing petition. The Commission also cannot endorse this commenter's suggestion that language should be added that would direct that the submission of written presentations should not await the completion of any NRC staff safety or environmental analysis that is being prepared relative to the licensing application. Again, this is an issue best left to the discretion of the presiding officer. The Commission notes, however, that because the NRC staff can take a licensing action prior to the completion of a hearing on the application, any delay in the hearing that might be caused by awaiting a staff safety or environmental evaluation would not necessarily translate into a delay in license issuance.

Finally, one commenter suggested that specific language be added to paragraph (c) to indicate that applicants have the right to file a reply to the written presentation of those parties who challenge the requested licensing action. While the right of an applicant, as a party to the proceeding, to file a written presentation is implicit in the language of paragraph (a), the Commission has added additional language to that paragraph clarifying any ambiguity. The sequence and timing of that submission remains in the discretion of the presiding officer.

#### 8. Proposed § 2.1235—Oral Presentations

In the event that the written presentations afforded by § 2.1233 and the responses to written questions posed by the presiding officer prove to be inadequate to resolve the issues raised, the presiding officer is given the discretion to allow or require the parties to make oral presentations. These presentations may include the testimony of witnesses. Commenters expressed concern that the language of § 2.1235 did not make clear the parameters under which oral presentations were to be allowed, particularly with respect to

examination of witnesses by nonsponsoring parties. To clarify this matter, the Commission has included language in paragraph (a) stating that the responsibility for the examination of all witnesses rests with the presiding officer, who may allow parties to propose questions for the witness that the presiding officer can pose if the questions are found appropriate. The Commission recognizes that by requiring the presiding officer to make determinations about the propriety of each question for a witness, an additional burden is being imposed that could involve delay in the proceeding while the parties compose and the presiding officer decides the propriety of questions for each witness. Nonetheless, because oral presentations should be necessary only in those rare instances in which the written presentations leave unresolved issues that the presiding officer finds can be decided only after having oral presentations, and because proposed questions undoubtedly can be prefiled in many instances, the Commission expects these procedural requirements to be manageable.

One other commenter questioned whether the language in paragraph (b) stating that "[a]ll oral presentations \* \* \*, unless the presiding officer orders otherwise, must be public," is designed to give a presiding officer more latitude to hold nonpublic informal hearings than is provided for formal adjudications under Subpart G. In fact, there was no intention that this provision be substantively different from § 2.751, which governs formal hearings. To avoid any ambiguity, the Commission has added language to paragraph (b) to make it clear that this section parallels § 2.751.

#### 9. Proposed § 2.1251—Initial decision

Two commenters raised questions about § 2.1251, which specifies that after completion of the informal written and, if necessary, oral presentations, a presiding officer must render an initial decision, unless the Commission chooses to undertake that task itself by having the record certified to it. One commenter suggested that, as with § 2.764, there should be language making the initial decision immediately effective so as to authorize the NRC staff to take the appropriate licensing action. Section 2.1205(1), which authorizes the NRC staff to take a requested licensing action without regard to any pending hearing request, undoubtedly will provide the functional equivalent of an effectiveness provision in many instances. The possibility exists, however, that the staff will not yet have taken any action or, if



the staff has acted, the presiding officer's determination may include license conditions that were not imposed by the staff. In these instances, it would be appropriate for the presiding officer's decision to become immediately effective so as to authorize the staff to take the appropriate licensing action promptly. Accordingly, the Commission has added paragraphs (e) and (f) to § 2.1251 to indicate that the presiding officer's decision will be immediately effective, subject to any stay that might be sought and granted in accordance with § 2.1263.

A second commenter suggested that the time within which an initial decision will become final agency action, absent an appeal, should be thirty days rather than the forty-five days specified in the proposed rule. The Commission agrees with this proposal and paragraph (a) has been revised accordingly.

#### 10. Proposed §§ 2.1253-1257—Agency Appellate Review of a Presiding Officer's Determination

Under §§ 2.1253-1257 of the proposed rule, parties and § 2.1211(b) participants to an informal adjudication would have an appeal as of right to the Atomic Safety and Licensing Appeal Board, as they do under the existing practice for formal adjudications. Several commenters criticized this provision as bringing an unnecessary and overly formal step into the informal hearing process. One commenter recommended that any review be limited to Commission-conducted *sua sponte* consideration of the presiding officer's decision to determine whether there were any errors that require correction.

For those informal materials licensing hearing proceedings convened since the *West Chicago* proceeding, the only appellate review provided has been a Commission *sua sponte* review of the presiding officer's decision, such as is suggested by the commenter. As a result of its experience in those proceedings, the Commission has concluded that the interest of all parties is better served if the Appeal Board is given the initial opportunity to consider any arguments concerning errors in a presiding officer's legal or factual findings relating to a particular licensing action. The Appeal Board, whose principal function is the review of adjudicatory records in formal licensing matters, generally is in as good a position as the Commission to provide a thorough, prompt, initial appellate review of individual informal adjudicatory decisions, as well as interlocutory certified questions, thereby freeing Commission resources for the consideration of broader policy matters relating to reactor facilities and

materials licensees. As a result, the Commission has decided to retain Appeal Board initial review of presiding officer decision, subject thereafter to *sua sponte* Commission review.

#### C. Additional Comments

One commenter made two additional suggestions. The commenter suggested that the materials licensing rule contain a provision regarding burden of proof in the proceeding and a provision on motions procedures. The Commission has included a new § 2.1237 that would incorporate the appropriate provisions of Subpart G relating to these matters.

#### Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

#### Paperwork Reduction Review

This final rule contains no information collection requirements and therefore is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

#### Regulatory Analysis

The Atomic Energy Act affords interested persons the right to a hearing regarding a materials licensing proceeding. As the Commission previously indicated in its *West Chicago* decision, 15 NRC at 241, the use of informal procedures involves less cost and delay for parties and the Commission than the use of formal, trial-type procedures, the only other procedural alternative. Also, procedures must be in place to allow for orderly conduct of those adjudications. Codifying the informal hearing procedures for materials licensing proceedings in preferable to the only other alternative, which is the present practice of establishing the procedures to be followed on a case-by-case basis. By codifying the procedures, the Commission will avoid the expenditure of time and resources necessary to prepare the individual orders that previously have been used to designate those procedures. It thus is apparent that this final rule is the preferred alternative and the cost entailed in its promulgation and application is necessary and appropriate. The foregoing discussion constitutes the regulatory analysis for this final rule.

#### Regulatory Flexibility Certification

The final rule will not have a significant economic impact upon a substantial number of small entities. Many materials licensees or intervenors fall within the definition of small businesses found in section 34 of the Small Business Act, 15 U.S.C. 632, or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR Part 121, or the NRC's size standards published December 9, 1985 (50 FR 50241). While the final rule would reduce the litigation cost burden upon licensees or intervenors because of the informal nature of the hearing, the requirement that they submit filings and documentary information detailing contested legal and factual issues is still required. Some cost reduction in comparison to the cost of participating in a formal adjudicatory hearing can be anticipated, although it is problematic whether that reduction as a whole will be significant. Certainly, the use of informal procedures will not increase significantly the burden upon licensees to respond to hearing requests. Thus, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), the NRC certifies that this rule does not have a significant economic impact upon a substantial number of small entities.

#### Backfit Analysis

The final rule does not modify or add to systems, structure, components, or design of a facility; the design approval or manufacturing license for a nuclear reactor facility; or the procedures or organization required to design, construct, or operate a facility. Accordingly, no backfit analysis pursuant to 10 CFR 50.109(c) is required for this final rule.

#### List of Subjects in 10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalty, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR Part 2:



## PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

1. The authority citation for Part 2 is revised to read as follows:

Authority: Secs. 161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87-615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552.

Section 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 105, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 102, Pub. L. 91-190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Sections 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Section 2.105 also issued under Pub. L. 97-415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 2.200-2.206 also issued under secs. 186, 234, 68 Stat. 955, 83 Stat. 444, as amended (42 U.S.C. 2236, 2282); sec. 206, 88 Stat. 1246 (42 U.S.C. 5846). Sections 2.600-2.606 also issued under sec. 102, Pub. L. 91-190, 83 Stat. 853, as amended (42 U.S.C. 4332). Sections 2.700a, 2.719 also issued under 5 U.S.C. 554. Sections 2.754, 2.760, 2.770, 2.780 also issued under 5 U.S.C. 557. Section 2.764 and Table 1A of Appendix C also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133) and 5 U.S.C. 552. Sections 2.800 and 2.808 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C. 553 and sec. 29, Pub. L. 85-256, 71 Stat. 579, as amended (42 U.S.C. 2039). Subpart K also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97-425, 96 Stat. 2230 (42 U.S.C. 10154). Subpart L also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239). Appendix A also issued under sec. 6, Pub. L. 91-560, 84 Stat. 1473 (42 U.S.C. 2135). Appendix B also issued under sec. 10, Pub. L. 99-240, 99 Stat. 1842 (42 U.S.C. 2021b et seq.).

2. Subpart L of Part 2 is added to read as follows:

### Subpart L—Informal Hearing Procedures for Adjudications in Materials Licensing Proceedings

- Sec.
- 2.1201 Scope of subpart.
  - 2.1203 Docket; filing; service.
  - 2.1205 Request for a hearing; petition for leave to intervene.
  - 2.1207 Designation of presiding officer.
  - 2.1209 Power of presiding officer.
  - 2.1211 Participation by a person not a party.
  - 2.1213 Role of the NRC staff.
  - 2.1215 Appearance and practice.

#### Hearings

- 2.1231 Hearing file; prohibition on discovery.
- 2.1233 Written presentations; written questions.
- 2.1235 Oral presentations; oral questions.
- 2.1237 Motions; burden of proof.

- Sec.
- 2.1239 Consideration of Commission rules and regulations in informal adjudications.
  - 2.1241 Settlement of proceedings.

#### Initial Decision, Commission Review, and Final Decision

- 2.1251 Initial decision and its effect.
- 2.1253 Appeals from initial decisions.
- 2.1255 Review by the Atomic Safety and Licensing Appeal Board.
- 2.1257 Review of decisions and actions of an Atomic Safety and Licensing Appeal Board.
- 2.1259 Final decision; petition for reconsideration.
- 2.1261 Authority of the Secretary to rule on procedural matters.
- 2.1263 Stays of NRC staff licensing actions or of decisions of a presiding officer, an Atomic Safety and Licensing Appeal Board, or the Commission, pending hearing or review.

### Subpart L—Informal Hearing Procedures for Adjudications in Materials Licensing Proceedings

#### § 2.1201 Scope of subpart.

The general rules in this subpart govern procedure in any adjudication initiated by a request for a hearing in a proceeding for the grant, transfer, renewal, or licensee-initiated amendment of a material license subject to Parts 30, 32 through 35, 39, 40, or 70 of this chapter. Any adjudication regarding a materials license subject to Parts 30, 32 through 35, 39, 40, or 70 that is initiated by a notice of hearing issued under § 2.104, a notice of proposed action under § 2.105, or a request for hearing under Subpart B of 10 CFR Part 2 on an order to show cause, an order for modification of license, or a civil penalty, is to be conducted in accordance with the procedures set forth in Subpart G of 10 CFR Part 2.

#### § 2.1203 Docket; filing; service.

(a) The Secretary shall maintain a docket for each adjudication subject to this subpart, commencing with the filing of a request for a hearing. All papers, including any request for a hearing, petition for leave to intervene, correspondence, exhibits, decisions, and orders, submitted or issued in the proceeding; the hearing file compiled in accordance with § 2.1231; and the transcripts of any oral presentations or oral questioning made in accordance with § 2.1235 or in connection with any appeal under this subpart must be filed with the Office of the Secretary and must be included in the docket. The public availability of official records relating to the proceeding is governed by § 2.790.

(b) Documents are filed with the Office of the Secretary in adjudications subject to this subpart either—

(1) By delivery to the Docketing and Service Branch of the Office of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852; or

(2) By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

Filing by mail or telegram is complete as of the time of deposit in the mail or with the telegraph company. Filing by other means is complete as of the time of delivery to the Docketing and Service Branch of the Office of the Secretary.

(c) Each document submitted for filing in an adjudication subject to this part, other than an exhibit, must be legibly typed, must bear the docket number and the title of the proceeding, and, if it is the first document filed by that participant, must designate the name and address of a person upon whom service can be made. The document also must be signed in accordance with § 2.708(c). A document, other than correspondence, must be filed in an original and two conforming copies. Documents filed by telegram are governed by § 2.708(f). A document that fails to conform to these requirements may be refused acceptance for filing and may be returned with an indication of the reason for nonacceptance. Any document tendered but not accepted for filing may not be entered in the docket.

(d) Computation of time and extension and reduction of time limits is done in accordance with §§ 2.710-2.711.

(e) A request for a hearing or a petition for leave to intervene must be served in accordance with § 2.712 and § 2.1205(e), (j). All other documents issued by the presiding officer, the Atomic Safety and Licensing Appeal Board, or the Commission or offered for filing are served in accordance with § 2.712.

#### § 2.1205 Request for a hearing; petition for leave to intervene.

(a) Any person whose interest may be affected by a proceeding for the grant, transfer, renewal, or licensee-initiated amendment of a license subject to this subpart may file a request for a hearing.

(b) An applicant for a license, a license amendment, a license transfer, or a license renewal who is issued a notice of proposed denial or a notice of denial and who desires a hearing shall file the request for the hearing within the time specified in § 2.103 in all cases.



(c) A person other than an applicant shall file a request for a hearing within—

(1) Thirty (30) days of the agency's publication of the initial Federal Register notice referring or relating to an application or the licensing action requested by an application, which must include a reference to the opportunity for a hearing under the procedures set forth in this subpart; or

(2) If a Federal Register notice is not published in accordance with paragraph (c)(1), the earlier of—

(i) Thirty (30) days after the requestor receives actual notice of a pending application or an agency action granting an application; or

(ii) One hundred and eighty (180) days after agency action granting an application.

(d) The request for a hearing filed by a person other than an applicant must describe in detail—

(1) The interest of the requestor in the proceeding;

(2) How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in paragraph (g) of this section;

(3) The requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and

(4) The circumstances establishing that the request for a hearing is timely in accordance with paragraph (c) of this section.

(e) Each request for a hearing must be served, by delivering it personally or by mail to—

(1) The applicant (unless the requestor is the applicant); and

(2) The NRC staff, by delivery to the Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or by mail addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

(f) Within ten (10) days of service of a request for a hearing filed under paragraph (c) of this section, the applicant may file an answer. The NRC staff, if it chooses or is ordered to participate as a party in accordance with § 2.1213, may file an answer to a request for a hearing within ten (10) days of the designation of the presiding officer.

(g) In ruling on a request for a hearing filed under paragraph (c) of this section, the presiding officer shall determine that the specified areas of concern are germane to the subject matter of the proceeding and that the petition is timely. The presiding officer also shall determine that the requestor meets the

judicial standards for standing and shall consider, among other factors—

(1) The nature of the requestor's right under the Act to be made a party to the proceeding;

(2) The nature and extent of the requestor's property, financial, or other interest in the proceeding; and

(3) The possible effect of any order that may be entered in the proceeding upon the requestor's interest.

(h) If a hearing request filed under paragraph (b) of this section is granted, the applicant and the NRC staff shall be parties to the proceeding. If a hearing request filed under paragraph (c) of this section is granted, the requestor shall be a party to the proceeding along with the applicant and the NRC staff, if the staff chooses or is ordered to participate as a party in accordance with § 2.1213.

(i) If a request for a hearing is granted and a notice of the kind described in paragraph (c)(1) previously has not been published in the Federal Register, a notice of hearing must be published in the Federal Register stating—

(1) The time, place, and nature of the hearing;

(2) The authority under which the hearing is to be held;

(3) The matters of fact and law to be considered;

(4) The time within which any other person whose interest may be affected by the proceeding may petition for leave to intervene, as specified in paragraph (j) of this section; and

(5) The time within which a request to participate under § 2.1211(b) must be filed.

(j) Any petition for leave to intervene must be filed within thirty (30) days of the date of publication of the notice of hearing. The petition must set forth the information required under paragraph (d) of this section.

(1) A petition for leave to intervene must be served upon the applicant. The petition also must be served upon the NRC staff—

(i) By delivery to the Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852; or

(ii) By mail addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

(2) Within ten (10) days of service of a petition for leave to intervene, the applicant and the NRC staff, if the staff chooses or is ordered to participate as a party in accordance with § 2.1213, may file an answer.

(3) Thereafter, the petition for leave to intervene must be ruled upon by the presiding officer, taking into account the

matters set forth in paragraph (g) of this section.

(4) If the petition is granted, the petitioner becomes a party to the proceeding.

(k)(1) A request for a hearing or a petition for leave to intervene found by the presiding officer to be untimely under paragraph (c) or (j) will be entertained only upon determination by the Commission or the presiding officer that the requestor or petitioner has established that—

(i) The delay in filing the request for a hearing or the petition for leave to intervene was excusable; and

(ii) The grant of the request for a hearing or the petition for leave to intervene will not result in undue prejudice or undue injury to any other participant in the proceeding, including the applicant and the NRC staff, if the staff chooses or is ordered to participate as a party in accordance with § 2.1213.

(2) If the request for a hearing on the petition for leave to intervene is found to be untimely and the requestor or petitioner fails to establish that it otherwise should be entertained under paragraph (k)(1) of this section, the request or petition will be treated as a petition under § 2.206 and referred for appropriate disposition.

(l) The filing or granting of a request for a hearing or petition for leave to intervene need not delay NRC staff action regarding an application for a licensing action covered by this subpart.

(m) An order granting a request for a hearing or a petition for leave to intervene may condition or limit participation in the interest of avoiding repetitive factual presentations and argument.

(n) If the presiding officer denies a request for a hearing or a petition for leave to intervene in its entirety, the action is appealable within ten (10) days of service of the order on the question whether the request for a hearing or the petition for leave to intervene should have been granted in whole or in part. If a request for a hearing or a petition for leave to intervene is granted, parties other than the requestor or petitioner may appeal that action within ten (10) days of service of the order on the question whether the request for a hearing or the petition for leave to intervene should have been denied in its entirety. An appeal may be taken by filing and serving upon all parties a statement that succinctly sets out, with supporting argument, the errors alleged. The appeal may be supported or opposed by any party by filing a counter-statement within fifteen (15) days of the service of the appeal brief.



**§ 2.1207 Designation of presiding officer.**

(a) Unless otherwise ordered by the Commission or as provided in paragraph (b) of this section, within ten (10) days of receiving from the Office of the Secretary a request for a hearing relating to a licensing proceeding covered by this subpart, the Chairman of the Atomic Safety and Licensing Board Panel shall issue an order designating a single member of the panel to rule on the request for a hearing and, if necessary, to serve as the presiding officer to conduct the hearing.

(b) For any request for hearing relating to an application under 10 CFR Part 70 to receive and store unirradiated fuel at the site of a production or utilization facility that also is the subject of a proceeding under Subpart G of this Part for the issuance of an operating license, within ten (10) days of receiving from the Office of the Secretary a request for a hearing the Chairman of the Atomic Safety and Licensing Board Panel shall issue an order designating a Licensing Board conducting the operating license proceeding to rule on the request for a hearing and, if necessary, to conduct the hearing in accordance with this Subpart. Upon certification to the Commission by the Licensing Board designated to conduct the hearing that the matters presented for adjudication by the parties with respect to the Part 70 application are substantially the same as those being heard in the pending proceeding under 10 CFR Part 50, the Licensing Board may conduct the hearing in accordance with the procedures in Subpart G.

**§ 2.1209 Power of presiding officer.**

A presiding officer has the duty to conduct a fair and impartial hearing according to law, to take appropriate action to avoid delay, and to maintain order. The presiding officer has all powers necessary to those ends, including the power to—

- (a) Regulate the course of the hearing and the conduct of the participants;
- (b) Dispose of procedural requests or similar matters;
- (c) Hold conferences before or during the hearing for settlement, simplification of the issues, or any other proper purpose;
- (d) Certify questions to the Atomic Safety and Licensing Appeal Board for determination, either in the presiding officer's discretion or on direction of the Commission or the Atomic Safety and Licensing Appeal Board;
- (e) Reopen a closed record for the reception of further information at any time prior to initial decision in accordance with § 2.734;
- (f) Administer oaths and affirmations;

(g) Issue initial decisions;

(h) Issue subpoenas requiring the attendance and testimony of witnesses at the hearing or the production of documents for the hearing;

(i) Receive written or oral evidence and take official notice of any fact in accordance with § 2.743(i);

(j) Appoint special assistants from the Atomic Safety and Licensing Board Panel in accordance with § 2.722;

(k) Recommend to the Commission that procedures other than those authorized under this subpart be used in a particular proceeding; and

(l) Take any other action consistent with the Act and this chapter.

**§ 2.1211 Participation by a person not a party.**

(a) The presiding officer may permit a person who is not a party to make a limited appearance in order to state his or her views on the issues. Limited appearances may be in writing or oral, at the discretion of the presiding officer, and are governed by rules adopted by the presiding officer. A limited appearance statement is not to be considered part of the decisional record under § 2.1251(c).

(b) Within thirty days of an order granting a request for a hearing made under § 2.1205(b)-(c) or, in instances when it is published, within thirty days of a notice of hearing issued under § 2.1205(i), the representative of an interested State, county, municipality, or an agency thereof, may request an opportunity to participate in a proceeding under this subpart. The request for an opportunity to participate must state with reasonable specificity the requestor's areas of concern about the licensing activity that is the subject matter of the proceeding. Upon receipt of a request that is filed in accordance with these time limits and that specifies the requestor's areas of concern, the presiding officer shall afford the representative a reasonable opportunity to make written and oral presentations in accordance with §§ 2.1233 and 2.1235, without requiring the representative to take a position with respect to the issues. Participants under this subsection may notice an appeal of an initial decision in accordance with § 2.1253 with respect to any issue on which they participate.

**§ 2.1213 Role of the NRC staff.**

If a hearing request is filed under § 2.1205(b), the NRC staff shall be a party to the proceeding. If a hearing request is filed under § 2.1205(c), within ten (10) days of the designation of a presiding officer pursuant to § 2.1207 the NRC staff shall notify the presiding

officer whether or not the staff desires to participate as a party to the adjudication. In addition, upon a determination by the presiding officer that the resolution of any issue in the proceeding would be aided materially by staff's participation in the proceeding as a party, the presiding officer may offer or permit the NRC staff to participate as a party with respect to that particular issue.

**§ 2.1215 Appearance and practice.**

(a) An individual may appear in an adjudication under this subpart on his or her own behalf or by an attorney-at-law. Representation by an attorney-at-law is not necessary in order for an organization or a § 2.1211(b) participant to appear in an adjudication conducted under this subpart. If the representative of an organization is not an attorney-at-law, he or she shall be a member or officer of the organization represented. Upon request of the presiding officer, an individual acting as a representative shall provide appropriate information establishing the basis of his or her authority to act in a representational capacity.

(b) Any action to reprimand, censure, or suspend a party, a § 2.1211(b) participant, or the representative of a party or a § 2.1211(b) participant must be in accordance with the procedures in § 2.713(c).

**Hearings****§ 2.1231 Hearing file; prohibition on discovery.**

(a) Within thirty (30) days of the presiding officer's entry of an order granting a request for a hearing, the NRC staff shall file in the docket, present to the presiding officer, and make available to the applicant and any other party to the proceeding a hearing file. Thereafter, within ten (10) days of the date a petition for leave to intervene or a request to participate under § 2.1211(b) is granted, the NRC staff shall make the hearing file available to the petitioner or the § 2.1211(b) participant.

(1) The hearing file must be made available to the applicant and any other party or § 2.1211(b) participant to the proceeding either by—

(i) Service in accordance with § 2.1203(e); or

(ii) Placing the file in an established local public document room in the vicinity of the principal location where nuclear material that is the subject of a proceeding under this subpart will be possessed, and informing the applicant, party, or § 2.1211(b) participant in writing of its action and the location of



the file. If an established local public document room does not exist, the NRC staff will arrange for the documents contained in the hearing file, along with any other material docketed in accordance with § 2.1203, to be made available for public inspection and copying during the course of the adjudication in a library or other facility that is accessible to the general public during regular business hours and is in the vicinity of the principal location where the nuclear material that is the subject of the proceeding will be possessed.

(2) The hearing file also must be made available for public inspection and copying during regular business hours at the NRC Public Document Room in Washington, DC.

(b) The hearing file will consist of the application and any amendment thereto, any NRC environmental impact statement or assessment relating to the application, and any NRC report and any correspondence between the applicant and the NRC that is relevant to the application. Hearing file documents already in an established local public document room or the NRC Public Document Room when the hearing request is granted may be incorporated into the hearing file at those locations by a reference indicating where at those locations the documents can be found. The presiding officer shall rule upon any issue regarding the appropriate materials for the hearing file.

(c) The NRC staff has a continuing duty to keep the hearing file up to date with respect to the materials set forth in paragraph (b) of this section and to provide those materials for the docket, the presiding officer, and the applicant or any party or § 2.1211(b) participant in a manner consistent with the way the hearing file was made available initially under paragraph (a).

(d) A party or § 2.1211(b) participant may not seek discovery from any other party, § 2.1211(b) participant, or the NRC or its personnel, whether by document production, deposition, interrogatories, or otherwise.

#### § 2.1233 Written presentations; written questions.

(a) After publication of a notice of hearing in accordance with § 2.1205(i) and after the NRC staff has made the hearing file available in accordance with § 2.1231, the parties and § 2.1211(b) participants shall be afforded the opportunity to submit, under oath or affirmation, written presentations of their arguments and documentary data, informational material, and other supporting written evidence at the time

or times and in the sequence the presiding officer establishes by appropriate order. The presiding officer also may, on his or her initiative, submit written questions to the parties to be answered in writing, under oath or affirmation, and supported by appropriate documentary data, informational material, or other written evidence.

(b) In a hearing initiated under § 2.1205(b), the initial written presentation of the applicant that is issued a notice of proposed denial or a notice of denial must describe in detail any deficiency or omission in the agency's denial or proposed denial of its application and what relief is sought with respect to each deficiency or omission.

(c) In a hearing initiated under § 2.1205(c), the initial written presentation of a party that requested a hearing or petitioned for leave to intervene must describe in detail any deficiency or omission in the license application, with references to any particular section or portion of the application considered deficient, give a detailed statement of reasons why any particular section or portion is deficient or why an omission is material, and describe in detail what relief is sought with respect to each deficiency or omission.

(d) A party or § 2.1211(b) participant making an initial written presentation under this section shall submit with its presentation or identify by reference to a generally available publication or source, such as the hearing file, all documentary data, informational material, or other written evidence upon which it relies to support or illustrate each omission or deficiency complained of. Thereafter, additional documentary data, informational material, or other written evidence may be submitted or referenced by any party, other than the NRC staff, or by any § 2.1211(b) participant in a written presentation or in response to a written question only as the presiding officer, in his or her discretion, permits.

(e) Strict rules of evidence do not apply to written submissions under this section, but the presiding officer may, on motion or on the presiding officer's own initiative, strike any portion of a written presentation or a response to a written question that is cumulative, irrelevant, immaterial, or unreliable.

#### § 2.1235 Oral presentations; oral questions.

(a) Upon a determination that it is necessary to create an adequate record for decision, in his or her discretion the presiding officer may allow or require

oral presentations by any party or § 2.1211(b) participant, including testimony by witnesses. Oral presentations are subject to any appropriate time limits the presiding officer imposes. Responsibility for the conduct of the examination of any witness rests with the presiding officer who may allow a party or § 2.1211(b) participant to propose questions for the presiding officer to pose a witness.

(b) Oral presentations and responses to oral questioning to be relief upon as oral evidence must be given under oath or affirmation. All oral presentations or oral questioning must be stenographically reported and, except as requested pursuant to section 181 of the Act, must be public unless otherwise ordered by the Commission.

(c) Strict rules of evidence do not apply to oral submissions under this section, but the presiding officer may, on motion or on the presiding officer's own initiative, strike any portion of an oral presentation or a response to oral questioning that is cumulative, irrelevant, immaterial, or unreliable.

#### § 2.1237 Motions; burden of proof.

(a) Motions presented in the proceeding must be presented and disposed of in accordance with §§ 2.730 [a]–[g].

(b) Unless otherwise ordered by the presiding officer, the applicant or the proponent of an order has the burden of proof.

#### § 2.1239 Consideration of Commission rules and regulations in informal adjudications.

(a) Except as provided in paragraph (b) of this section, any regulation of the Commission issued in its program for the licensing and regulation of production and utilization facilities, source material, special nuclear material, or byproduct material may not be challenged in any adjudication subject to this subpart.

(b) A party to an adjudication subject to this subpart may petition that the application of a Commission regulation specified in paragraph (a) of this section be waived or an exception made for the particular proceeding. The sole ground for a request for waiver or exception must be that special circumstances exist so that application of the regulation to the subject matter of the proceeding would not serve the purposes for which the regulation was adopted. In the absence of a prima facie showing of special circumstances, the presiding officer may not further consider the matter. If the presiding officer determines that a prima facie showing



has been made, he or she shall certify directly to the Commission itself for determination the matter of whether special circumstances support a waiver or an exception and whether a waiver or an exception should be granted. The Commission's determination shall be made after any further proceeding the Commission deems appropriate.

#### § 2.1241 Settlement of proceedings.

The fair and reasonable settlement of proceedings subject to this subpart is encouraged. A settlement must be approved by the presiding officer or Atomic Safety and Licensing Appeal Board, as appropriate, in order to be binding in the proceeding.

#### Initial Decision, Commission Review, And Final Decision

##### § 2.1251 Initial decision and its effect.

(a) Unless the Commission directs that the record be certified to it in accordance with paragraph (b) of this section, the presiding officer shall render an initial decision after completion of an informal hearing under this subpart. That initial decision constitutes the final action of the Commission thirty (30) days after the date of issuance, unless an appeal is taken in accordance with § 2.1253.

(b) The Commission may direct that the presiding officer certify the record to it without an initial decision and may omit an initial decision and prepare a final decision upon a finding that due and timely execution of its functions so requires.

(c) An initial decision must be in writing and must be based only upon information in the record or facts officially noticed. The record must include all information submitted in the proceeding with respect to which all parties have been given reasonable prior notice and an opportunity to comment. The initial decision must include—

(1) Findings, conclusions, and rulings, with the reasons or basis for them, on all material issues of fact, law, or discretion presented on the record;

(2) The appropriate ruling, order, or denial of relief with its effective date; and

(3) The time within which appeals to the decision and a brief in support of those appeals may be filed, the time within which briefs in support of or in opposition to appeals filed by another party may be filed, and the date when the decision becomes final in the absence of an appeal.

(d) Matters not put into controversy by the parties may not be examined and decided by the presiding officer or the Atomic Safety and Licensing Appeal Board. If the presiding officer or the Appeal Board believes that a serious

safety, environmental, or common defense and security matter exists that has not been placed in controversy, the presiding officer or the Appeal Board shall advise the Commission promptly of the basis for that view, and the Commission may take appropriate action.

(e) Pending review and final decision by the Commission, an initial decision resolving all issues before the presiding officer in favor of authorizing licensing action subject to this subpart is immediately effective upon issuance except—

(1) As provided in any order issued in accordance with § 2.1263 that stays the effectiveness of an initial decision; or

(2) As otherwise provided by the Commission in special circumstances.

(f) Following an initial decision resolving all issues in favor of the licensing action as specified in paragraph (e) of this section, the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate, notwithstanding the filing or pendency of an appeal pursuant to § 2.1253, shall take the appropriate licensing action upon making the appropriate licensing findings promptly, except as may be provided pursuant to paragraph (e)(1) or (2) of this section.

##### § 2.1253 Appeals from initial decisions.

Parties and § 2.1211(b) participants may appeal from an initial decision under this subpart in accordance with the procedures set out in §§ 2.762 and 2.763.

##### § 2.1255 Review by the Atomic Safety and Licensing Appeal Board.

The Commission authorizes the Atomic Safety and Licensing Appeal Board to exercise the authority and carry out the review functions to be performed under §§ 2.1205(n), 2.1209(d), and 2.1253.

##### § 2.1257 Review of decision and actions of an Atomic Safety and Licensing Appeal Board.

The Commission will not entertain any petition for review of a decision or action of an Atomic Safety and Licensing Appeal Board under this subpart. Commission review is available only on the Commission's own motion within forty (40) days after the date of a decision or action by the Appeal Board under § 2.1255. Commission review will be conducted in accordance with those procedures the Commission deems appropriate. Absent Commission review, the decision of the Appeal Board constitutes the final action of the Commission.

##### § 2.1259 Final decision; petition for reconsideration.

(a) Commission or Atomic Safety and Licensing Appeal Board action to render a final decision must be in accordance with § 2.770.

(b) The provisions of § 2.771 govern the filing of petitions for reconsideration.

##### § 2.1261 Authority of the Secretary to rule on procedural matters.

The Secretary or the Assistant Secretary may rule on procedural matters relating to proceedings conducted by the Commission itself under this subpart to the same extent they can do so under § 2.772 for proceedings under Subpart G.

##### § 2.1263 Stays of NRC staff licensing actions or of decisions of a presiding officer, an Atomic Safety and Licensing Appeal Board, or the Commission, pending hearing or review.

Applications for a stay of any decision or action of the Commission, a presiding officer, or an Atomic Safety and Licensing Appeal Board or any action by the NRC staff in issuing a license in accordance with § 2.1205(1) are governed by § 2.788, except that any request for a stay of staff licensing action pending completion of an adjudication under this subpart must be filed at the time a request for a hearing or petition to intervene is filed or within ten (10) days of the staff's action, whichever is later. A request for a stay of a staff licensing action must be filed with the adjudicatory decisionmaker before which the licensing proceeding is pending.

Dated at Rockville, MD, this 23rd day of February, 1989.

For the Nuclear Regulatory Commission.  
Samuel J. Chilk,  
Secretary of the Commission.

[FR Doc. 89-4601 Filed 2-27-89; 8:45 am]

BILLING CODE 7590-01-M

## NATIONAL CREDIT UNION ADMINISTRATION

### 12 CFR Parts 701 and 741

#### Nonmember and Public Unit Accounts

AGENCY: National Credit Union Administration.

ACTION: Interim final rule—extension of comment period.

SUMMARY: On December 14, 1988, the NCUA Board approved an interim final rule limiting the amount of public unit and nonmember accounts that may be maintained by federally-insured credit



unions. New provisions were added to Parts 701 (§ 701.32) and 741 (§ 741.5) of NCUA's Rules and Regulations (12 CFR Part 700 *et seq.*) setting forth the rule. The rule was published in the *Federal Register* on December 19, 1988 (see 53 FR 50918), and became effective on that date. The NCUA Board requested that comments on the interim final rule be submitted on or before February 20, 1989. Due to the response received on the interim final rule, the Board has decided to extend the comment period from February 20, 1989, to May 15, 1989.

**EFFECTIVE DATE:** December 19, 1988. The comment period is being extended from February 20, 1989, to May 15, 1989.

**ADDRESS:** Send comments to Becky Baker, Secretary of the Board, National Credit Union Administration, 1776 G Street, NW, Washington, DC 20456.

**FOR FURTHER INFORMATION CONTACT:** D. Michael Riley, Director, Office of Examination and Insurance, or James J. Engel, Deputy General Counsel, at the above address or telephone: (202) 682-9640 (Mr. Riley) or 682-9630 (Mr. Engel).

The authority citation for Part 701 is:

Authority: 12 U.S.C. 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, and 1789.

The authority citation for Part 741 is:

Authority: 12 U.S.C. 1766, 1781, and 1789.

By the National Credit Union Administration Board on February 23, 1989.

Becky Baker,  
Secretary of the Board.

[FR Doc. 89-4633 Filed 2-27-89; 8:45 am]

BILLING CODE 7535-01-M

## DEPARTMENT OF COMMERCE

### Bureau of Export Administration

#### 15 CFR Parts 776, 785 and 799

[Docket No. 90249-9049]

#### Removal of Unilateral National Security Controls; Additional Controls on Chemicals and Biological Agents and Precursors

**AGENCY:** Bureau of Export Administration, Commerce.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** The Bureau of Export Administration maintains the Commodity Control List (CCL), which identifies those items subject to Department of Commerce export controls. This rule makes changes to the CCL in three areas of export control.

(1) It removes unilateral U.S. national security controls on goods and

technology, consistent with amendments made by the Omnibus Trade and Competitiveness Act of 1988 to section 5(c)(6) of the Export Administration Act of 1979, as amended (EAA).

(2) This rule expands foreign policy controls on the export of certain chemical and biological agents useful in chemical and biological warfare. This action, taken because of heightened concern over the uncontrolled proliferation of such agents, conforms to the United States policy of opposing the use of chemical and biological weapons in violation of international norms. This action is taken upon the recommendation of the Secretary of State with the concurrence of the Secretary of Commerce.

(3) Finally, this rule imposes export controls, for reasons of nuclear non-proliferation, on helium-3. This action is taken upon the recommendation of the Secretary of Energy with the concurrence of the Secretary of Commerce.

**DATES:** This rule is effective February 23, 1989. Comments must be received by April 14, 1989.

**ADDRESS:** Written comments (six copies) should be sent to Vincent Greenwald, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

**FOR FURTHER INFORMATION CONTACT:** Vincent Greenwald, Bureau of Export Administration, Department of Commerce, Telephone: (202) 377-3856.

#### SUPPLEMENTARY INFORMATION:

##### Removal of Unilateral Controls Maintained for National Security Purposes

Most of the entries that the United States controls unilaterally because of national security reasons are removed from the CCL by this rule. For the most part, goods that had been included in those entries were also controlled for foreign policy reasons to Country Groups S and Z and will continue to be controlled to those destinations. These controls will now be reflected in those entries at the end of each commodity group that are controlled only to those destinations. In addition, those unilateral national security controlled entries being removed that are also controlled for foreign policy or nuclear nonproliferation reasons will continue to be controlled for such reasons. The net effect of this rule is to reduce the number of export license applications submitted annually by roughly 1,450. These 1,450 submissions represent a

dollar value of \$240 million in fiscal year 1988.

Exporters should be aware that certain items within deleted entries that are specially designed or modified for military use may be subject to the International Traffic in Arms Regulations. Such items are under the jurisdiction of the Office of Munitions Control, Department of State. This applies particularly to ECCNs 5406C (ITAR category VI(c)), 4431B (ITAR category VI(b)), 5431C (ITAR category IV(h), VI(b), VII(h)), 5510C (ITAR category VI(b), XI(a)(2)), 4601B (ITAR category XXI), 5568C (ITAR category VIII(j)), and 4516B (ITAR category XI(c)).

Section 5(c)(6) of the EAA applies not only to goods, but also to technical data and software controlled unilaterally by the United States. Accordingly, exporters are notified that such unilateral technical data controls no longer apply.

In general, the multilateral national security controls on technical data and software are found in certain "A" entries on the Control List, in § 779.4(d) and in Supplement Nos. 3 and 4 to Part 779. In general, multilateral national security controls apply to technical data required for the development, production, or use of products defined on the Control List with the letter "A" at the end of its Export Control Commodity Number, as well as to the integration of uncontrolled parts into such products. However, certain COCOM entries have specific references to technical data that have not been published in the Export Administration Regulations because previously a validated license has been required for the export of virtually all technical data to the Soviet Bloc.

Under the current structure of the technical data controls, it is extremely difficult to draft precise rules to implement the statutory mandate to eliminate unilateral technical data controls. For that reason, exporters should seek advice from the Bureau of Export Administration unless they are certain that their technical data or software is neither multilaterally controlled nor controlled for reasons of nuclear nonproliferation or foreign policy.

The Department of Commerce announced in its proposed technical data and software rule (October 13, 1988, 53 FR 40074) that it is integrating all technical data and software controls on to the Control List. Once that task is completed, the Department will publish the revised Part 779 and the revised Control List. The revised Control List will adhere to the specific technical data and software provisions of COCOM's



International List and will give greater guidance regarding the scope of multi-lateral national security controls. Until that task is completed, exporters are urged to submit classification requests to the Office of Technology and Policy Analysis on a case-by-case basis.

Exporters are reminded that unilateral controls may be maintained for foreign policy and nuclear non-proliferation reasons. For example, technical data controls in § 779.4(c) are imposed for reasons of nuclear non-proliferation. A wide variety of technical data and software controls are imposed for foreign policy reasons under Part 785.

#### Additional Controls on Certain Chemicals and Biological Agents

Upon recommendation by the Secretary of State, with the concurrence of the Secretary of Commerce, this rule provides for foreign policy control of selected chemicals, viruses and viroids, bacteria, fungi and protozoa, which had been subject to unilateral national security control. Each item continues to be controlled at the same level of country control that had applied for national security reasons, except that controls to Iran, Iraq and Syria have been added when necessary. These controls are necessary to further significantly the foreign policy of the United States. These foreign policy controls on chemicals harmonize our controls with those of other Western countries that are concerned about the proliferation of these chemicals and publicly convey the United States opposition to the use of chemical weapons. Although the viruses, bacteria, protozoa and fungi are not now subject to multilateral control, the United States is exploring ways to seek such controls by other suppliers. The Department of Commerce has submitted a report to the Congress under section 6 of the EAA to support imposition of these foreign policy controls. The general policy will be to deny exports to Libya, Iran, Iraq or Syria, unless the transaction is in performance of a contract entered into before February 22, 1989.

However, the general policy will be to approve exports to other countries to which a validated license is required, except where there is reason to believe that those chemicals will be used in producing chemical or biological weapons or will otherwise be devoted to chemical warfare purposes. In seeking public comments on this rule, the Department is particularly interested in comments on the possibility of further controls on additional chemicals and on technical data and production equipment related to these products.

#### Nuclear Non-Proliferation Controls

This rule also imposes controls on helium-3, which was controlled under Export Control Commodity Number (ECCN) 4721B of the Commodity Control List, by placing it on the Nuclear Referral List. The Secretary of Commerce, upon the recommendation of the Secretary of Energy, has determined that use of helium-3 for purposes other than that for which the export was intended, could be of significance for nuclear explosive purposes. This rule also maintains preexisting nuclear nonproliferation controls on four ECCN's for which the unilateral national security controls are removed—ECCN's 4585B, 5585C, 4592B, and 4635B.

#### Rulemaking Requirements

1. This rule is consistent with Executive Orders 12291 and 12661.
2. This rule mentions a collection of information subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This collection has been approved by the Office of Management and Budget under control number 0694-0005. The net effect of this rule is to reduce the number of export license applications submitted annually by roughly 1,450. This should reduce the paperwork burden on the public by approximately 1,100 hours annually.
3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.
4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553), or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.
5. Section 13(a) of the Export Administration Act of 1979 (EAA), as amended (50 U.S.C. app. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date.

However, because of the importance of the issues raised by these regulations, this rule is issued in interim form and comments will be considered in the development of final regulations. Publishing this rule in proposed form would impair the Bureau of Export Administration's ability to impose

effective and timely controls. This rule is issued in interim form and, consistent with section 13(b) of the EAA, an opportunity for public comment is provided for this rule.

In addition to comments on this rule, the Department is seeking comments on possible controls on technical data and production equipment related to the items placed under foreign policy control by this rule.

This period for submission of comments will close April 14, 1989. The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. Accordingly, the Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views.

The Department will not accept public comments accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature or for any other reason.

The Department will return such comments and materials to the person submitting the comments and will not consider them in the development of final regulations.

All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires comments in written form. Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the Bureau of Export Administration Freedom of Information Records Inspection Facility, Room 4886, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue NW., Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the *Code of Federal Regulations*. Information about the inspection and copying of records may be obtained from Margaret Cornejo,



Bureau of Export Administration  
Freedom of Information Officer, at the  
above address or by calling (202) 377-  
633.

list of Subjects in 15 CFR Parts 776, 785  
and 799

Communist countries, Exports,  
reporting and recordkeeping  
requirements.

Accordingly, the Export  
Administration Regulations (15 CFR  
Parts 700-799) are amended as follows:

#### PART 776—[AMENDED]

1. The authority citation for Part 776  
continues to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503 (50  
U.S.C. app. 2401 *et seq.*), as amended by Pub.  
L. 97-145 of December 29, 1981, by Pub. L.  
99-64 of July 12, 1985, and by Pub. L. 100-418  
of August 23, 1988; E.O. 12525 of July 12, 1985  
(50 FR 28757, July 16, 1985).

2. Part 776 is amended by adding a  
776.19, reading as follows:

#### 776.19 Chemical and biological agents.

(a) In support of U.S. foreign policy,  
and particularly the U.S. policies of  
opposing the proliferation and use of  
chemical and biological weapons,  
chemicals identified in ECCN 4798B  
require a validated license for export  
from the United States to all foreign  
destinations except Australia, Belgium,  
Canada, Denmark, the Federal Republic  
of Germany, France, Greece, Iceland,  
Ireland, Italy, Japan, Luxembourg, the  
Netherlands, New Zealand, Norway,  
Portugal, Spain, Switzerland, Turkey  
and the United Kingdom. Other  
chemicals identified in 5798F and 5799C  
are controlled to the countries indicated  
in those entries. Viruses and viroids  
identified in ECCN 4997B and bacteria,  
fungi, and protozoa identified in ECCN  
4998B are controlled to all destinations  
except Canada.

(b) Unless the criteria stated in  
paragraph (c), (d) or (e) of this section  
are met, applications to export the goods  
in ECCNs 4798B, 5798F, 5799C, 4997B,  
and 4998B will generally be denied to  
Libya, Iran, Iraq and Syria. Applications  
will generally be approved to other  
destinations, except where there is  
reason to believe that those goods will  
be used in producing chemical or  
biological weapons or will otherwise be  
devoted to chemical or biological  
warfare purposes.

(c) Applications to export the  
following chemicals to Syria, in  
performance of a contract entered into  
before April 28, 1986, generally will be  
approved: Dimethyl methylphosphonate;  
dimethyl phosphonyldifluoride;  
phosphorous oxychloride; thiodiglycol;

dimethylamine hydrochloride;  
dimethylamine; ethylene chlorohydrin  
(chloroethanol); and potassium fluoride.

(d) Applications to export the  
following chemicals to Iran, Iraq or  
Syria, in performance of a contract or  
agreement entered into before July 6,  
1987 will generally be approved:  
Dimethyl phosphite (dimethyl hydrogen  
phosphite); methyl  
phosphonyldichloride; 3-quinuclidinol;  
N,N-diisopropylaminoethane-2-thiol;  
N,N-diisopropylaminoethyl-2-chloride;  
3-hydroxy-1-methylpiperidine; trimethyl  
phosphite; phosphorous trichloride; and  
thionyl chloride.

(e) Applications to export other items  
in ECCNs 4798B, 4997B, and 4998B to  
Iran, Iraq or Syria in performance of a  
contract entered into before February  
22, 1989 will generally be approved.

(f) Applicants who wish a pre-existing  
contract to be considered in reviewing  
their license applications must submit  
adequate documentation demonstrating  
the existence of the contract.

(g) The reexport provisions of Part 774  
and the provisions of § 776.12 are not  
applicable to the foreign policy controls  
of this section. However, the export of  
these commodities from the United  
States to any destination with  
knowledge that they will be reexported  
directly or indirectly, in whole or in part,  
to Iran, Iraq, Syria or Libya is prohibited  
without a validated license.

#### PART 785—[AMENDED]

3. The authority citation for Part 785  
continues to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503 (50  
U.S.C. app. 2401 *et seq.*), as amended by Pub.  
L. 97-145 of December 29, 1981, by Pub. L.  
99-64 of July 12, 1985, and by Pub. L. 100-418  
of August 23, 1988; E.O. 12525 of July 12, 1985  
(50 FR 28757, July 16, 1985); Pub. L. 95-223 of  
December 28, 1977 (50 U.S.C. 1701 *et seq.*);  
E.O. 12532 of September 9, 1985 (50 FR 36861,  
September 10, 1985) as affected by notice of  
September 4, 1986 (51 FR 31925, September 8,  
1986); Pub. L. 99-440 of October 2, 1986 (22  
U.S.C. 5001 *et seq.*); and E.O. 12571 of  
October 27, 1986 (51 FR 39505, October 29,  
1986).

4. Section 785.4 is amended by  
revising paragraph (e) to read as  
follows:

#### § 785.4 Country groups T and V.

(e) *Iran: scuba gear.* In support of U.S.  
foreign policy concerns, a validated  
license is required for the export to Iran  
of self-contained underwater breathing  
apparatus and related equipment,  
including the equipment listed in ECCN  
5398F, all of which is herein referred to  
as scuba gear. Applications for export to

Iran of commodities subject to these  
controls will generally be denied.

#### PART 799—[AMENDED]

5. The authority citation for Part 799  
continues to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503 (50  
U.S.C. app. 2401 *et seq.*), as amended by Pub.  
L. 97-145 of December 29, 1981, by Pub. L.  
99-64 of July 12, 1985, and by Pub. L. 100-418  
of August 23, 1988; E.O. 12525 of July 12, 1985  
(50 FR 28757, July 16, 1985); Pub. L. 95-223 of  
December 28, 1977 (50 U.S.C. 1701 *et seq.*);  
E.O. 12532 of September 9, 1985 (50 FR 36861,  
September 10, 1985) as affected by notice of  
September 4, 1986 (51 FR 31925, September 8,  
1986); Pub. L. 99-440 of October 2, 1986 (22  
U.S.C. 5001 *et seq.*); and E.O. 12571 of  
October 27, 1986 (51 FR 39505, October 29,  
1986).

#### Supplement No. 1 to § 799.1 [Amended]

6. In Supplement No. 1 to § 799.1 (the  
Commodity Control List), the following  
Export Control Commodity Numbers  
(ECCNs) are removed:

In Commodity Group 3 (General  
Industrial Equipment), ECCN 5399C;  
In Commodity Group 4 (Transportation  
Equipment), ECCNs 5406C, 4431B, and  
5431C;  
In Commodity Group 5 (Electronics and  
Precision Instruments), ECCNs 5510C,  
4516B, 5568C, 5595C, and 5596C;  
In Commodity Group 6 (Metals,  
Minerals, and Their Manufactures),  
ECCN 4601B; and  
In Commodity Group 7 (Chemicals,  
Metalloids, Petroleum Products and  
Related Materials), ECCNs 4707B,  
4746B, 4754B, and 4755B.

7. In Commodity Group 3 (General  
Industrial Equipment), the heading of  
ECCN 6399C is revised to read "General  
industrial equipment, n.e.s., and parts  
and accessories therefor."

8. In Commodity Group 5 (Electronics  
and Precision Instruments), ECCN 4585B  
is amended by removing the "List of  
Photographic Equipment Controlled by  
ECCN 4585B" and by revising the  
heading and the *Reason for Control* and  
*Special Licenses Available* paragraphs  
to read as follows:

4585B Streak cameras capable of  
recording events that are initiated by, or  
synchronized with, the camera  
mechanism (*i.e.*, discontinuous access  
type), having a design capability for  
writing speeds of 8 mm per microsecond  
and above and a time resolution of 100  
nanoseconds or less, and parts and  
accessories, n.e.s.

*Reason for Control:* Nuclear non-  
proliferation.

*Special Licenses Available:* None.



9. In Commodity Group 5 (Electronics and Precision Instruments), ECCN 5585C is amended by removing the "List of Photographic Equipment Controlled by ECCN 5585C" and by revising the heading and the *Reason for Control* and *Special Licenses Available* paragraphs to read as follows:

**5585C Other high-speed continuous writing, rotating drum cameras capable of recording at rates in excess of 2,000 frames per second, and parts and accessories, n.e.s.**

\* \* \* \* \*

*Reason for Control:* Nuclear non-proliferation.

*Special Licenses Available:* None.

\* \* \* \* \*

10. In Commodity Group 5 (Electronics and Precision Instruments), ECCN 4592B is amended by revising the *Validated License Required* and *Reason for Control* paragraphs to read as follows:

**4592B Equipment for measuring pressures to 100 Torr or less having corrosion-resistant sensing elements of nickel, nickel alloys, phosphor bronze, stainless steel, or aluminum.**

\* \* \* \* \*

*Validated License Required:* Country Groups QSTVWYZ, except countries identified in Supp. Nos. 2 and 3 to Part 773.

\* \* \* \* \*

*Reason for Control:* Nuclear non-proliferation.

\* \* \* \* \*

11. In Commodity Group 6 (Metals, Minerals and Their Manufactures), ECCN 4635B is amended by revising the *Reason for Control* paragraph to read "Nuclear non-proliferation."

12. In Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials), ECCN 4721B is amended by revising the *Reason for Control* and *Special Licenses Available* paragraphs to read as follows:

**4721B Helium isotopically enriched in the helium-3 isotope, in any form or quantity, and whether or not admixed with other materials, or contained in any equipment or device.**

\* \* \* \* \*

*Reason for Control:* Nuclear non-proliferation.

*Special Licenses Available:* None.

13. In Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials), ECCN 4798B is amended by revising the heading and the *Validated License Required* paragraph and by adding a "List of Chemicals Controlled by ECCN 4798B" at the end of the entry, as follows:

**4798B Precursor and intermediate chemicals used in the production of chemical warfare agents.**

\* \* \* \* \*

*Validated License Required:* All destinations except Australia, Belgium, Canada, Denmark, the Federal Republic of Germany, France, Greece, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Spain, Switzerland, Turkey, and the United Kingdom.

\* \* \* \* \*

*Special Foreign Policy Controls:* \* \* \*

**List of Chemicals Controlled by ECCN 4798B**

- (a) Diethyl methylphosphonite,
- (b) Dimethyl methylphosphonate,
- (c) Dimethyl phosphite (dimethyl hydrogen phosphite),
- (d) Methyl benzilate,
- (e) Methyl phosphonyl dichloride,
- (f) Methyl phosphonyl difluoride,
- (g) N,N-diisopropyl-B-amino ethanol,
- (h) Phosphorous oxychloride,
- (i) 3-Quinuclidinol,
- (j) 3-Quinuclidinone, and
- (k) Thiodiglycol.

14. In Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials), a new ECCN 5798F is added between 4798B and 4799B, reading as follows:

**5798F Arsenic trichloride, dimethylamine, ethylene chlorohydrin (chloroethanol), phosphorous trichloride, potassium cyanide, potassium fluoride, and thionyl chloride.**

**Controls for ECCN 5798F**

*Unit:* Report in "\$ value."

*Validated License Required:* Country Groups S and Z, Iran, Iraq, Syria, and as required by special South Africa policy below.

*GLV \$ Value Limit:* General License GLV not applicable; however, another general license may apply.

*Processing Code:* CM.

*Reason for Control:* Foreign policy.

*Special Licenses Available:* None.

*Special South Africa and Namibia*

*Controls:* A validated license is required for export or reexport to the Republic of South Africa and Namibia if intended for delivery to or for use by or for military or police entities in these destinations, or for use in servicing equipment owned, controlled, or used by or for these entities. See § 785.4(a).

15. In Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials), ECCN 5799C is amended by revising the heading, the *Validated License Required* paragraph, the *Reason for Control* paragraph, and the *Special Licenses Available* paragraph and by adding a List of

Chemicals Controlled by ECCN 5799C, as follows:

**5799C Chemicals, as described in this entry.**

**Controls for ECCN 5799C**

\* \* \* \* \*

*Validated License Required:* Country Groups QSWYZ, the People's Republic of China, Afghanistan, Iran, Iraq, Syria, and as required by special South Africa policy below.

\* \* \* \* \*

*Reason for Control:* Foreign policy.

*Special Licenses Available:* None.

*Special South Africa and Namibia*

*Controls:* \* \* \*

**List of Chemicals Controlled by ECCN 5799C**

- (a) Benzoic acid (2,2-diphenyl-2-hydroxyacetic acid) (2,2-diphenylglycolic acid);
- (b) Diethyl ethylphosphonate;
- (c) Diethyl-N,N-dimethylphosphoramidate;
- (d) Diethyl phosphite;
- (e) Dimethyl ethylphosphonate;
- (f) Dimethylamine hydrochloride;
- (g) Ethyl phosphinyl dichloride;
- (h) Ethyl phosphinyl difluoride (ethyl phosphorous difluoride);
- (i) Ethyl phosphonyl dichloride;
- (j) Ethyl phosphonyl difluoride;
- (k) Hydrogen fluoride;
- (l) 3-Hydroxy-1-methylpiperidine;
- (m) Methyl phosphinyl dichloride;
- (n) Methyl phosphinyl difluoride (methyl phosphorous difluoride);
- (o) N,N-diisopropyl-B-aminoethyl chloride;
- (p) N,N-diisopropyl-B-aminoethane thiol;
- (q) Phosphorous pentachloride;
- (r) Pinacolone (3,3-dimethyl-2-butanone);
- (s) Pinacolyl alcohol;
- (t) QL (O-ethyl-2-diisopropylaminoethyl methylphosphonite);
- (u) Triethyl phosphite; and
- (v) Trimethyl phosphite.

16. In Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials), ECCN 6799G is amended by revising the heading and the *Validated License Required* and *Special Licenses Available* paragraphs to read as follows:

**6799G Other chemicals, chemical materials and products, plastic materials, regenerated cellulose, artificial resins, and miscellaneous related materials and products, n.e.s.**

\* \* \* \* \*

*Validated License Required:* Country Groups SZ and as required by special South Africa policy below.

\* \* \* \* \*



**Special Licenses Available: None.**

17. In Commodity Group 9 (Miscellaneous), ECCNs 4997B and 4998B are revised to read as follows:

4997B Viruses or viroids for human, veterinary, plant, or laboratory use, except those listed in § 799.2, Interpretation 25. (See interpretation 24 for classification of microorganisms on the basis of hazard or pathogenicity.)

**Controls for ECCN 4997B**

Unit: Report in "\$ value."

Validated License Required: Country Groups QSTVWYZ.

CLV \$ Value Limit: \$0 for all destinations.

Processing Code: CM.

Reason for Control: Foreign policy.

Special Licenses Available: See Part 773.

4998B Bacteria, fungi, and protozoa, except those listed in § 799.2, Interpretation 26. (See interpretation 24 for classification of etiologic agents on the basis of hazard or pathogenicity.)

**Controls for ECCN 4998B**

Unit: Report in "\$ value."

Validated License Required: Country Groups QSTVWYZ.

CLV \$ Value Limit: \$0 for all destinations.

Processing Code: CM.

Reason for Control: Foreign policy.

Special Licenses Available: See Part 773.

**Supplement No. 1 to § 799.2 [Amended]**

18. Supplement No. 1 to § 799.2, Commodity Interpretations, is amended by revising Interpretation 24, adding Interpretations 25 and 26, and removing Interpretations 28 and 29.

Interpretation 24: Classification of Microorganisms by Level of Hazard or Pathogenicity as defined by the U.S. Department of Health, Education, and Welfare's 3rd Edition (June 1972) of the "Classification of Etiologic Agents on the Basis of Hazard"

**I. Basis for Agent Classifications**

Class 1. Agents of no or minimal hazard under ordinary conditions of handling.

Class 2. Agents of ordinary potential hazard. This class includes agents that may produce disease of varying degrees of severity from accidental inoculation or injection or other means of cutaneous penetration, but are contained by ordinary laboratory techniques.

Class 3. Agents involving special hazard or agents derived from outside the United States that require a federal

permit for importation unless they are specified for higher classification. This class includes pathogens that require special conditions for containment.

Class 4. Agents that require the most stringent conditions for their containment because they are extremely hazardous to laboratory personnel or may cause serious epidemic disease. This class includes Class 3 agents from outside the United States when they are employed in entomological experiments or when other entomological experiments are conducted in the same laboratory area.

Class 5. Foreign animal pathogens that are excluded from the United States by law or whose entry is restricted by USDA administrative policy.

NOTE: Federally licensed vaccines containing live bacteria or viruses are not subject to these classifications. These classifications are applicable, however, to cultures of the strains used for vaccine production.

**II. Classification of Agents**

[This classification does not include strictly animal pathogens. A PHS permit is required to import any agent or to transfer within the United States any agent imported under permit.]

**A. Classification of Bacterial Agents**

Class 1. All bacterial agents not included in higher classes according to "Basis for Agent Classifications."

Class 2. Actinobacillus—all species except A. mallei, which is Class 3.

Arizona hinshawii—all serotypes

Bacillus anthracis

Bordetella—all species

Borrelia recurrentis, B. vincenti

Clostridium botulinum:

C1. chauvoei, C1. haemolyticum,

C1. histolyticum, C1. novyi,

C1. septicum, C1. tetani

Corynebacterium diphtheriae,

C. equi, C. haemolyticum,

C. pseudotuberculosis,

C. pyogenes, C. renale

Diplococcus (Streptococcus)

pneumoniae

Erysipelothrix insidiosus

Escherichia coli—all enteropathogenic

serotypes

Haemophilus ducreyi, H. influenzae

Herellea vaginicola

Klebsiella—all species and all serotypes

Leptospira interrogans—all serotypes

Listeria—all species

Mima polymorpha

Moraxella—all species

Mycobacteria—all species except those

listed in Class 3

Mycoplasma—all species except

Mycoplasma mycoides, which is in

Class 5

Neisseria gonorrhoeae, N. meningitidis  
Pasteurella—all species except those  
listed in Class 3

Salmonella—all species and all  
serotypes

Shigella—all species and all serotypes

Sphaerophorus necrophorus

Staphylococcus aureus

Streptobacillus moniliformis

Streptococcus pyogenes

Treponema carateum, T. pallidum, and  
T. pertenue

Vibrio fetus, V. comma, including  
biotype El Tor, and V.  
parahemolyticus

**Class 3. Actinobacillus mallei<sup>1</sup>**

Bartonella—all species

Brucella—all species

Francisella tularensis

Mycobacterium avium, M. bovis M.  
tuberculosis

Pasteurella multocida type B ("buffalo")  
and other foreign virulent strains<sup>1</sup>

Pseudomonas pseudomallei<sup>1</sup>

Yersenia pestis

**B. Classification of Fungal Agents**

Class 1. All fungal agents not included in higher classes according to "Basis for Agent Classifications."

Class 2. Actinomycetes (including Nocardia species and Actinomyces species and Arachnia propionica).

Blastomyces dermatitidis

Cryptococcus neoformans

Paracoccidioides brasiliensis

Class 3. Coccidioides immitis.

Histoplasma capsulatum

**C. Classification of Parasitic Agents**

Class 1. All parasitic agents not included in higher classes according to "Basis for Agent Classifications."

Class 2. Endamoeba histolytica.

Leishmania sp.

Naegleria gruberi

Toxoplasma gondii

Toxocara canis

Trichinella spiralis

Trypanosoma cruzi

Class 3. Schistosoma mansoni

**D. Classification of Viral, Rickettsial, and Chlamydial Agents**

Class 1. All viral, rickettsial, and chlamydial agents not included in higher classes according to "Basis for Agent Classifications," including the following:

Influenza virus A PR8/34

Newcastle virus—strains licensed for  
vaccine use in the U.S.

Parainfluenza virus 3, SF4 Strain

<sup>1</sup> USDA permit also required for import or interstate transport.



[These viruses are specifically listed because they are suitable for science experiments at a junior level.]

**Class 2. Adenoviruses—human, all types.**

Cache Valley virus  
Coxsackie A and B viruses  
Cytomegaloviruses  
Echoviruses—all types  
Encephalomyocarditis virus (EMC)  
Flanders virus  
Hart Part virus  
Hepatitis candidate viruses  
Herpes viruses—except Herpesvirus simiae (Monkey B virus), which is in Class 4

Infectious bronchitis-like virus  
Influenza viruses—all types except A/PR8/34, which is in Class 1

Langat virus  
Lymphogranuloma venereum agent  
Measles virus  
Mumps virus

Parainfluenza viruses—all types, except Parainfluenza virus 3. SF4 strain, which is in Class 1

Polioviruses—all types, wild and attenuated

Poxviruses—all types except Alastrim and Smallpox, which, depending on experiments, are in Class 3 or Class 4

Rabies virus—all strains except Rabies street virus, which is in Class 3 when inoculated into wild animals or domestic carnivores

Reoviruses—all types

Respiratory syncytial virus

Rhinoviruses—all types

Rubella virus

Simian viruses—all types except Herpesvirus simiae (Monkey B virus) and Marburg virus, which are in Class 4

Sindbis virus

Tensaw virus

Turlock virus

Vaccinia virus

Varicella virus

Vole rickettsia

Yellow fever virus, 17D vaccine strain

**Class 3. Alastrim, when used *in vitro*.**

Arboviruses—all strains except those in Classes 2 and 4

[Arboviruses indigenous to the United States are in Class 3, except those listed in Class 2. West Nile and Semliki Forest viruses may be classified up or down, depending on the conditions of use and geographical location of the laboratory.]

Lymphocytic choriomeningitis virus (LCM)

Monkey pox virus

Psittacosis-Ornithosis-Trachoma group of agents

Rabies street virus, when used in inoculations of wild animals or domestic carnivores (See Class 2.)

Rickettsia—all species except Vole

rickettsia when used for transmission or animal inoculation experiments

Smallpox virus, when used *in vitro*

Vesicular stomatitis virus<sup>1</sup>

Yellow fever virus—wild, when used *in vitro*

**Class 4. Alastrim virus, when used for transmission or animal inoculation experiments**

Dengue virus, when used for transmission or animal inoculation experiments

Hemorrhagic fever agents, including Crimean hemorrhagic fever (Congo), Junin, and Machupo viruses, and others as yet undefined

Herpesvirus simiae (Monkey B virus)

Lassa virus

Marburg virus

Mucambo virus

Smallpox virus, when used for transmission or animal inoculation experiments

Tick-borne encephalitis virus complex, including Russian spring-summer encephalitis, Kyasanur forest disease, Omsk hemorrhagic fever, and Central European encephalitis viruses

Yellow fever virus—wild, when used for transmission or animal inoculation experiments

#### Interpretation 25: Viruses and Viroids

With the exception of genetically engineered or manipulated agents, the commodities identified in this Interpretation may be exported under General License to Country Groups QTVWY.

1. All Class I agents, as defined in Interpretation 24.

2. Class II agents, as follows:

#### Animal

##### Adenoviruses

##### Amphibian

##### Avian (U.S. isolates only)

##### Bovine (U.S. isolates only)

##### Canine

##### Human (except Type 38)

##### Murine

##### Simian

##### Caliciviruses

##### Coronaviruses (except avian infectious bronchitis and rabbit coronavirus)

##### Herpes and Herpes-like viruses

##### Canine

##### Equine

##### Feline

##### Fish

##### Guinea pig

##### Human (except B virus and simian herpes 3)

##### Swine

#### Orthomyxoviruses

#### Papovaviruses

#### Paramyxoviruses (except Nariva and Newcastle disease)

#### Parvoviruses (except goose hepatitis and LuIII)

#### Picornaviruses

#### Human enteroviruses

#### Human rhinoviruses

#### Animal (except porcine enterovirus 5)

#### Poxviruses (except Cotia, Embu, Monkeypox, and Myxoma)

#### Reoviruses

#### Retroviruses (except spleen necrosis and Visna)

#### Rotaviruses (except Bovine)

#### Bacterial

#### All phage strains *not* in hosts

#### Plant

#### All strains

#### Interpretation 26: Bacteria, Protozoa, and Fungi

With the exception of genetically engineered or manipulated agents, the commodities identified in this Interpretation may be exported under General License to Country Groups QTVWY.

1. All Class I agents, as defined in Interpretation 24.

2. Class II agents listed in this Interpretation 26, including bacteria, protozoa, and fungi.

Acetivibrio	Agromyces
Acetoanaerobium	Alcaligenes
Acetobacter	Alteromonas
Acetobacterium	Alysiella
Acetogenium	Amorphosporangium
Acetomicrobium	Ampullariella
Acholeplasma	Amycolata
Achromobacter	Amycolatopsis
Acidaminococcus	Anabaena
Acidiphilium	Anacystis
Acidothermus	Anaerobiospirillum
Acinetobacter	Anaeroplasm
Acranobacterium	Anaerovibrio
Actinobacillus	Ancalomicrobium
Actinomadura	Ancylobacter
Actinomonospora	Angiococcus
Actinomyces	Aquaspirillum
Actinoplanes	Arachnia
Actinopolyspora	Archangium
Actinopycnidium	Arthrobacter
Actinosporangium	Asticcacaulis
Actinosynnema	Aureobacterium
Aerobacter	Azomonas
Aerococcus	Azospirillum
Aeromonas	Azotobacter
Agrobacterium	Azotomonas

Bacterium	Blastococcus
Bacteroides	Bordetella
Bartonella	Bredyrhizobium
Bdellovibrio	Branhamella
Beggiatoa	Brevibacterium
Beijerinckia	Brochothrix
Beneckea	Budvicia
Betabacterium	Buttiauxella
Bifidobacterium	Butyribacterium
Blastobacter	Butyrivibrio

Calothrix	Cardiobacterium
Cepnocytophaga	Caryophanon

<sup>1</sup> USDA permit also required for import or interstate transport.



Caseobacter	Chromatium	Microcycylus	Morococcus	Ureaplasma	
Caseococcus	Chromobacterium	Microcystis	Mycobacterium (except		
Catenuloplanes	Chroococcidiopsis	Microlellosporidia	M. avium, M. bovis, M.		
Caulobacter	Chryseomonas	Micromonospora	tuberculosis, and	Veillonella	
Cedecea	Citrobacter	Micromyces	leprosy-derived	Vitreoscilla	
Cellulomonas	Clavibacter	Micropolyspora	strains)		
Cellvibrio	Cocobacillus	Microscilla	Mycoplasma		
Centipeda	Comamonas	Microtetrastora	Myxococcus		
Chaemisiphon	Coprococcus	Mobiluncus	Myxogastrium		
Chainia	Curtobacterium	Moellerella	Myxosarcina	Xanthobacter	Xenorhabdus
Chlorobium	Cylindrospermum	Moraxella	Myxomicrobium	Xanthomonas	Xylella
Chloroflexus	Cystobacter	Morganella		Xenococcus	
Chlorogloeopsis	Cytophaga				
Chondrococcus		Nannocystis	Nitrosomonas		
		Natronobacterium	Nitrospora	Yersinia (except Y.	
Dactylosporangium	Desulfobulbus	Neisseria	Nocardioides	pestis)	
Deinococcus	Desulfococcus	Nitrobacter	Nocardiosis		
Deleya	Desulfomonas	Nitrococcus	Nodularia	Zoogloea	
Dermatophilus	Desulfotomaculum	Nitrosococcus	Noguchia	Zymomonas	
Dermocarpa	Desulfovibrio	Nitrosolobus	Nostoc		
Dexia	Dictyoglomus				
		Obesumbacterium	Oscillatoria	Protozoa	
Ecotiorhodospira	Enterococcus	Oceanospirillum	Oxalobacter	(genus and species level)	
Edwardsiella	Erysipelothrix	Oerskovia			
Eikenella	Erythrobacter			Acanthamoeba	Lingulamoeba
Elytsporangium	Eubacterium	Paracoccus	Planomonospora	astronyxis	Lobomonas
Empedobacter	Ewingella	Pasturella (except P.	Plectonema	Acanthamoeba	Monocercomonas
Enterobacter	Excellulose	multocida Type B)	Plesiomonas	comandoni	Naegleria gruberi
			Polyangium	Acanthamoeba	Naegleria jadini
Falcivibrio	Flexiligradius	Pectinatus	Pseudomonospora	palestinensis	Naegleria lovaniensis
Fervidobacterium	Flexithrix	Pedococcus	Propionibacterium	Acanthamoeba	Naegleria thornstoni
Fluoribacter	Fluoribacter	Pedomicrobium	Propionispira	rhyodes	Nosema
Fischerella	Frankia	Peptococcus	Prostheobacter	Acanthamoeba	Nuclearia
Flavobacterium	Frateriia	Peptostreptococcus	Prosthecomicrobium	tubiasii	Ochromonas
Flectobacillus	Fusobacterium	Phenyllobacterium	Protaminobacter	Acanthoecopsis	Oikomonas
Flexibacter		Phormidium	Proteus	Adelphamoeba	Opisthionecta
		Photobacterium	Providencia	Amphidinium	Parafabellula
Gaffya	Gloeobacter	Pilimelia	Pseudanabaena	Astasia	Paramecium
Gardnerella	Gloeocapsa	Planctomyces	Pseudonocardia	Bicosoeca	Parameoeba
Gemella	Gloeothece	Pseudospira	Psychrobacter	Blastocitridia	Paratetramitus
Gemmiger	Gluconobacter	Planococcus		Blepharisma	Pentatrichomonas
Geodermatophilus	Glycomyces			Bodo	Phreatamoeba
		Rahnella	Rhodopseudomonas	Capsellina	Phytomonas
Haemophilus	Hapalosiphon	Renibacterium	Rhodospirillum	Chlamydomonas	Plasmodium berghei
Hafnia	Helibacillus	Rhizobium	Rhodotheca	Chlorogonium	berghei
Haliscamenobacter	Helibacterium	Rhodobacter	Rothia	Cinetochilum	Pleistophora
Haloanaerobium	Heliospirillum	Rhodococcus	Rugamonas	Cochliopodium	Polytoma
Halobacterium	Herbaspirillum	Rhodocyclus	Ruminococcus	Colpoda	Polytomella
Halobacteroides	Herpetosiphon	Rhodomicrobium	Runella	Crithidia	Protacanthamoeba
Halococcus	Hyphomicrobium	Rhodopila		Cryptocodium	Proteromonas
Halomethanococcus	Hyphomonas			Cryptobia	Pseudobodo
Halomonas		Saccharobacterium	Sporichthya	Cyathomonas	Rhynchomonas
		Saccharococcus	Sporocytophaga	Cyclidium	Rosculus
Ilyobacter		Saccharomonospora	Sporolactobacillus	Diaphanoeca	Saccamoeba
Intrasporangium		Saccharopolyspora	Sporomusa	Didinium	Salpingoeca
		Saccharothrix	Sporosarcina	Dientamoeba	Sorogena
		Saprosira	Stella	Dunaliella	Stephanopogon
		Sarcina	Stigmatella	Endotrypanum	Tetrahymena
Janthinobacterium		Scytonema	Stomatococcus	Entamoeba barreti	Tetramitus
		Sebekia	Streptococcus	Entamoeba invadens	Tetratrichomonas
		Selenomonas	Streptobacillus	Entamoeba moshkovskii	Tokophrya
Kibdelosporangium	Kluyvera	Seliberia	Streptobacterium	Entamoeba terrapinae	Toxoplasma
Kineosporia	Koserella	Serpens	Streptococcus	Entosiphon	Trichomitus
Kingella	Krusella	Serratia	Streptomyces	Euglena	Trichomonas
Kitasatoa	Kurthia	Simonsiella	Streptosporangium	Euploes	Trichomonas augusta
Kitasatosporia	Kystella	Sphaerotilus	Streptovorticillum	Flabellula	Trichomonas
		Sphingobacterium	Succinimonas	Giardia	mobilenis
Lachnospira	Leptospirillum	Spirillospora	Succinivibrio	Glaucoma	Trichomonas suis
Lactobacillus	Leptothrix	Spirillum	Sulfolobus	Hartmannella	Trypanosoma avium
Lactococcus	Leptotrichia	Spirochaeta	Synechococcus	Heliophrya	Trypanosoma bennetti
Lamproedia	Leuconostoc	Spiroplasma	Synechocystis	Herpetomonas	Trypanosoma cervi
Leclercia	Leuconostoc	Spirosoma	Syntrophococcus	Heteramoeba	Trypanosoma conorrhini
Leminorella	LPP Group	Spirulina		Hypotrichomonas	Trypanosoma lewisi
Leptosira	Lysobacter			Isonema	Trypanosoma mega
		Tatlockia	Thermoplasma	Khawkinsia	Trypanosoma muscoli
Megasphaera	Methanospirillum	Tatumella	Thermopolyspora	Leishmania adleri	Trypanosoma ranarum



Achaetomium	Aphanomyces	Caloscypha	Cladorrhinum	Debaryomyces	Dictyotrichiella
Achyla	Aphysostroma	Calvatia	Clasterosporium	Debaryozyma	Dictyuchus
Aciculoconidium	Apinisia	Camarops	Clavariopsis	Deightonella	Dicyma
Aciculosporium	Aplognomonia	Camarosporium	Clavatospora	Dekkera	Didymella
Acladium	Apiosordaria	Campanella	Clavicornia	Delitschia	Didymium
Acasis	Apiotrichum	Camposporium	Clavispora	Delortia	Didymopsis
Acrocyllidium	Apodus	Campylospora	Cleistothelobolus	Dematium	Didymosphaeria
Acrodictys	Apophysomyces	Canariomyces	Clitocybe	Dendrophoma	Didymostilbe
Acrodontium	Aquadiscula	Cancellidium	Clitopilus	Dendrospora	Diheterospora
Acrophialophora	Arachnomyces	Candelabrella	Clonostachys	Dendrosporium	Dimargaris
Acrospeira	Arachnotheca	Candelariella	Coccospora	Dendrostibella	Dimorphospora
Acrothecium	Arcuadendron	Cantharellula	Cochliobolus	Dendryphiella	Diplocarpon
Actinodendron	Arenariomyces	Cantharellus	Codinaea	Dendryphon	Diplochytridium
Actinomucor	Arenospora	Canthomyces	Coemansia	Dendryphiopsis	Diplocadium
Actinospora	Armillaria	Cepnodium	Cokeromyces	Dermatocarpon	Diplodina
Acytostelium	Armillariella	Cerpenetes	Colletotrichum	Dermea	Diplogelasinospora
Agaricus	Armium	Catenaria	Collybia	Dermocystidium	Diplomitoporus
Agrocybe	Arnoldia	Catenularia	Collecephalus	Dermoloma	Diplophrys
Aigialas	Arthonia	Caudospora	Colletotrichum	Dexhowardia	Dipodascus
Ajellomyces (except A. capsulata)	Arthrimum	Caulochytrium	Coniella	Diademospora	Dipsacomyces
Akenomyces	Arthroascus	Cavostelium	Conidiobolus	Diaporthe	Disarticulatus
Alatospora	Arthrobotrys	Cenococcum	Coniella	Diatrypella	Discosporium
Allochytridium	Arthrobotryum	Centrospora	Coniochaeta	Dibotryon	Dispira
Allomyces	Arthrocrisula	Cephalophora	Coniochaetidium	Dichomera	Ditiola
Alysidium	Arthroderma (except A. simii)	Cephalosporium	Coniophora	Dichomitus	Doassansia
Amantia	Arthrographis	Ceraceomerulius	Conioscypha	Dichotomocladium	Doratomyces
Amauroascus	Arthropis	Ceraceosorus	Coniothyrium	Dichotomophthora	Dothichiza
Amblyosporium	Articulospora	Ceratobasidium	Conoplea	Dichotomophthoropsis	Dothiella
Ambrosiella	Arxiella	Ceratocystopsis	Cookeina	Dichotomophthoropsis	Dothistroma
Ambrosiozyma	Arxiomyces	Ceratopycnis	Cooksonomyces	Dicranidium	Drechslera
Amoebidium	Asbolisia	Cercospora	Coprinus	Dictyophora	Duddingtonia
Amorphotheca	Asbolus	Cercosporiella	Copromyces	Dictyosporium	Dwayalomella
Ampelomyces	Ascochytiella	Ceratomyces	Cordana	Dictyostelium	
Ampullifera	Ascoconidium	Ceratomyces	Cordiceps	Echinobotryum	Eidemia
Amylocarpus	Ascoconium	Ceratomyces	Coriellus	Echinocatenata	Eladia
Amylomyces	Ascoconium	Ceratomyces	Coriellus	Echinodontium	Eleutherascus
Amylostereum	Ascoconium	Ceratomyces	Coriellus	Echinopodospore	Ellisomyces
Anaptychia	Ascoconium	Ceratomyces	Coriellus	Echinopodospore	Elsinoe
Anguillospora	Ascoconium	Ceratomyces	Coriellus	Echinopodospore	Embellisia
Aniptodera	Ascoconium	Ceratomyces	Coriellus	Echinopodospore	Emericella
Anixiella	Ascoconium	Ceratomyces	Coriellus	Echinopodospore	
Anixiopsis	Ascoconium	Ceratomyces	Coriellus	Echinopodospore	
Anthopsis	Ascoconium	Ceratomyces	Coriellus	Echinopodospore	
Anthostoma	Ascoconium	Ceratomyces	Coriellus	Echinopodospore	
Anthostomella	Ascoconium	Ceratomyces	Coriellus	Echinopodospore	
Anthrachia	Ascoconium	Ceratomyces	Coriellus	Echinopodospore	
Anthracotheceum	Ascoconium	Ceratomyces	Coriellus	Echinopodospore	
Antipodium	Ascoconium	Ceratomyces	Coriellus	Echinopodospore	
Antrodia	Ascoconium	Ceratomyces	Coriellus	Echinopodospore	
Aphanoascus	Ascoconium	Ceratomyces	Coriellus	Echinopodospore	
Aphanocladium	Ascoconium	Ceratomyces	Coriellus	Echinopodospore	
Bacidia	Blastobotrys	Chalaropsis	Cryptosphaeria	Emmonsia	Epidermophyton
Bacillospora	Blastocladiella	Chalaropsis	Cryptosphaeria	Endomyces	Eremascus
Backusella	Blastoschizomyces	Chalaropsis	Cryptosphaeria	Endophragmia	Eremomyces
Bactridium	Blaxamia	Chalaropsis	Cryptosphaeria	Endophragmiella	Erynia
Bactrodesmium	Boletus	Chalaropsis	Cryptosphaeria	Endothiella	Eudimerium
Badarisama	Bondarzewia	Chalaropsis	Cryptosphaeria	Engyodontium	Eupenicillium
Baeomyces	Botryosporium	Chalaropsis	Cryptosphaeria	Entomophthora	Eurotium
Baeospora	Botryobasidium	Chalaropsis	Cryptosphaeria	Entomophthora	Eutypa
Bahustrabeja	Botryoderma	Chalaropsis	Cryptosphaeria	Entophlyctis	Everhartia
Balansia	Botryodiplodia	Chalaropsis	Cryptosphaeria	Ephelis	Exobasidium
Barya	Botryohyphoxylon	Chalaropsis	Cryptosphaeria	Ephemerascus	Exophiala
Basidiobolus	Botryomonilia	Chalaropsis	Cryptosphaeria	Epichloe	Exosporium
Basidiomycetes	Botryosphaeria	Chalaropsis	Cryptosphaeria	Epicoccum	Exserohilum
Basidiocaulum	Botryosporium	Chalaropsis	Cryptosphaeria		
Basipetospore	Botryotinia	Chalaropsis	Cryptosphaeria		
Beltrania	Botryotrichum	Chalaropsis	Cryptosphaeria		
Beltraniella	Brachiosphaera	Chalaropsis	Cryptosphaeria		
Benjaminella	Brachysporiella	Chalaropsis	Cryptosphaeria		
Berkleasium	Brachysporium	Chalaropsis	Cryptosphaeria		
Berlesia	Briosa	Chalaropsis	Cryptosphaeria		
Beverwykella	Buellia	Chalaropsis	Cryptosphaeria		
Bimuria	Buergenerula	Chalaropsis	Cryptosphaeria		
Biscogniauxia	Bullera	Chalaropsis	Cryptosphaeria		
Bispora	Burgosia	Chalaropsis	Cryptosphaeria		
Bisporostibella	Butlerella	Chalaropsis	Cryptosphaeria		
Bjerkandera	Byssosporium	Chalaropsis	Cryptosphaeria		
Blakeslea	Byssothecium	Chalaropsis	Cryptosphaeria		
Cacumisporium	Caldariomyces	Dacrymyces	Daedalea	Gabarnaudia	Geotrichella
Calcarispora	Calocera	Dacryopinax	Daedaleopsis	Gaertneriomyces	Geotrichum
Calcarisporiella	Calocybe	Dactylaria	Daldinia	Gaeumannomyces	Gerlachia
Calcarisporium	Calopha	Dactylella	Darlucia	Galerina	Gibellulopsis
		Dactylospora	Datronia	Galzinia	Gilbertella
				Gamsia	Gilmanella
				Ganoderma	Glenospora
				Galasinispora	Gliocephalotrichum
				Gelatinosporium	Gliomastix
				Geniculifera	Gloeocercospora
				Geniculospora	Gloeocystidiellum
				Geniculosporium	Gloeophyllum
				Geomyces	Gloeoporus
				Georgiella	Gloeosporium
				Geomithia	Glomerella



Glomus	Grifola	Leccinum	Leptosphaerulina	Neovossia	Nidularia
Glomium	Griphosphaeria	Lecidea	Leptoxylum	Neoxenophila	Nigrospora
Glutinoaggar	Griseopora	Leciographa	Leucogyrophana	Neta	Nomuraea
Gnomonia	Guepinopsis	Lecythophora	Leucosporidium	Neurospora	Nowakowskiella
Godronia	Guignardia	Leiothecium	Leucostoma	Nia	Nummularia
Gonatobotrys	Guilliermondella	Lemonniera	Libertella		
Gonatobotryum	Gymnascella	Lentescopora	Lignicola		
Gongronella	Gymnoscoides	Lentinula	Limnoperdon	Ochroconis	Ophiobolus
Gonytrichella	Gymnopilus	Lentinus	Linderina	Odontia	Ophioceras
Gonytrichum	Gyoeffiyella	Lentodium	Lindra	Oedocephalum	Ophiodothella
Grammothele	Gyrodon	Lenzites	Lindtneria	Ohleria	Ophiostoma
Graphilbum	Gyrostroma	Lepidopterella	Lipomyces	Oldiodendron	Ophiovalsa
Graphis	Gyrostrix	Lepiota	Listeromyces	Oligosporus	Orbicularia
Graphium		Lepista	Lodderomyces	Olpitrichum	Orbimycetes
		Lepteutypa	Lophodermium	Omphalotus	Ostracoblabe
Hadrotrichum	Heterobasidion	Leptodiscella	Lophotrichus	Onnia	Oudemansia
Hainesia	Heterocephalum	Leptodiscus	Loramyces	Onygena	Ovulinia
Haligena	Heterosporus	Leptodontidium	Loweporus	Oosporidium	Oxyporus
Haliphthorus	Heterosporium	Leptographium	Lulworthia	Opegrapha	Ozonium
Halosarphaea	Heterotextus	Leptolegnia	Lunulospora	Opercullella	
Halosphaeria	Hexagonia	Leptomitus	Lycoperdon		
Halteromyces	Hirschioporus	Leptoporus	Lyophyllum		
Hamigera	Hirsutella	Leptosphaeria		Pachybasium	Pholiota
Hanseniaspora	Hobsonia			Pachysolen	Phomina
Hansenula	Hohenbuehelia	Macrodiplodiopsis	Microxyphiella	Pachytichospora	Phycomyces
Hansfordia	Holtermannia	Macrolepiota	Microxyphium	Paneolus	Phyllosticta
Hapalocystis	Hormiactis	Macronodus	Minimedusa	Panellus	Phyllotopsis
Hapalopilus	Hormoaccus	Macrophoma	Monacrosporium	Panus	Phymatotrichum
Haplographium	Hormodendrum	Macrophomina	Monascella	Papularia	Physalospora
Haploporus	Hormographis	Madurella	Monascus	Papulaspora	Physarum
Haplosporangium	Hormonema	Magnaporthe	Monilia	Paracoccidioides	Phytophthora
Hapsidiospora	Hortaea	Malassezia	Monilella	Parasericonia	Pichtia
Harposporium	Humicola	Malbranchea	Monilinia	Paraphaeoisaria	Piedraia
Hebeloma	Humicolopsis	Mammaria	Monochaetia	Paraphoma	Pilaira
Heleococcum	Hyalocladium	Marasmiellus	Monocillium	Parasitella	Pilobolus
Helicascus	Hyalopus	Marasmius	Monodictys	Paxillus	Piptopcephalis
Helicobasidium	Hyalopycnis	Margaritispora	Monodisma	Peckiella	Piptoporus
Helicondendron	Hyalotia	Mariannaea	Monographella	Pectinotrichum	Pirella
Helicoma	Hyalotiella	Marssonina	Monosporascus	Pellicularia	Pisolithus
Helicomonia	Hydronectria	Martinia	Monosporium	Penicillifer	Pistillaria
Helicomycetes	Hygrophoropsis	Massaria	Montospora	Peniophora	Pithosacus
Helicoon	Hygrophorus	Massariella	Montosporella	Perenniporia	Pithya
Helicosporina	Hymenochaete	Mastigomyces	Morchella	Periconia	Pityrosporum
Helicosporium	Hymenoscyphus	Mastigosporium	Mortierella	Peronophthora	Plagiophaera
Helicostylum	Hymenula	Megasporoporia	Mucor	Pestalospaeria	Platyspora
Heliscus	Hyphochytrium	Melanconis	Mucronella	Pestalotia	Plectospiva
Helminthosporium	Hyphoderma	Melanconium	Murogenella	Pestalotiopsis	Pleiochaeta
Hemicarpenales	Hyphodontia	Melanocarpus	Mutinus	Pestalozziella	Plenodomus
Hemiphacidium	Hypholoma	Melanodonthis	Myceliophthora	Petalosporus	Pleospora
Hendersonula	Hyphopichia	Melanomma	Mycelium	Petriella	Plesiospora
Henningsomyces	Hypochnicium	Melanophoma	Mycena	Petriellidium	Pleuroascus
Hericium	Hypocrea	Melanoporia	Mycocarpium	Petromyces	Pleuropedium
Herpotrichia	Hypomyces	Melanopsamma	Mycocarpium	Peyronellaea	Pleurothecium
Herpotrichiella	Hypoxylon	Melanospore	Mycocalia	Pezicula	Pleurotus
Hesseltinella	Hysterium	Melanotus	Mycocalcium	Peziza	Plunkettomyces
		Memmoniella	Mycocandida	Pezizella	Podaxis
Idriella	Inonotus	Menispora	Mycocentrospora	Phaeococcomyces	Podosordaria
Incrustoporia	Irpex	Meria	Mycoclamys	Phaeocoriolus	Podospora
Indurata	Isaria	Meruliopsis	Mycoderma	Phaeocystostroma	Podoxyphium
Infundibura	Ischnoderma	Merulius	Mycogone	Phaeoisaria	Polydesmia
Ingoldia	Issatchenkia	Metschnikowia	Mycogone	Phaeoisariopsis	Polypaecilium
Ingoldiella	Itersonilia	Metulodontia	Mycogone	Phaeolepiota	Polyporus
		Microascus	Mycogone	Phaeosclera	Polyschema
Japonochytrium	Junghuhnia	Microcyclops	Mycogone	Phaeoramularia	Polyscytium
Jugulospore		Microdiplodia	Mycogone	Phaeosclera	Polysphondylium
		Microdochium	Mycogone	Phaeoscopulariopsis	Polytrichiella
		Microeuretium	Mycogone	Phaeosphaeria	Poria
Kabatiella	Kluyveromyces	Microneuriella	Mycogone	Phaeotheca	Porina
Kaskaskia	Kochiomyces	Microporus	Mycogone	Phaeotrichum	Poroniconochaeta
Keratinomyces	Korunomyces	Microspheeropsis	Mycogone	Phaffia	Poronia
Keratinophyton	Kretzschmaria	Microthecium	Mycogone	Phagomyxa	Porosphaeria
Kernia	Kuehneromyces	Microthelia	Mycogone	Phanerochaete	Postia
Khuskia	Kuehniella	Microthyriella	Mycogone	Phascolumyces	Potebniamyces
Kickxella	Kuttlakesopsis			Phellinus	Preussia
Kloeckera				Phellodon	Protachyla
				Phellostroma	Protomyces
Labyrinthophoma	Laricifomes	Nadsonia	Nematoctonus	Phialoarthrobotryum	Protomycopsis
Labyrinthula	Lasiobolidium	Naemacyclus	Nematospore	Phialocephala	Protostelium
Laccaria	Lasiobolus	Naematoloma	Neobulgaria	Phialomyces	Psathyrella
Lachnellula	Lasioisphaeria	-Nais	Neocosmospora	Phialophora	Pseudallescheria
Lactarius	Lasiostemma	Nakataea	Neocudoniella	Phialophorophoma	Pseudeurotium
Lacunospore	Lateriramulosa	Nanoscypha	Neodeightonia	Phialophoropsis	Pseudoarachniotus
Laetiporus	Laterispora	Narashimhanian	Neogymnomycetes	Phillipsia	Pseudobasidiostroma
Laetisaria	Laurilia	Naucoria	Neosartorya	Phlebia	Pseudobotrytis
Legenidium	Laxitextum	Nectria	Neotestudina	Phleospore	Pseudocercospora
Lambertella	Lecanora	Nectriella	Neottiosporella	Phlyctoachytrium	Pseudocercospora



Pseudocochliobolus	Puciola	Stemphylium	Stropharia	Yarrowia	
Pseudofusarium	Pulcherricium	Stephanascus	Stuartella	Yeasts	
Pseudogymnoascus	Punctularia	Stephanoma	Stypella		
Pseudohalonectria	Pycnoporellus	Stephanosporium	Subulispora		
Pseudohiatula	Pycnoporus	Stephensia	Suillus		
Pseudomicrodachium	Pycnosporium	Stereocaulon	Swampomyces	Zalerion	Zygoascus
Pseudonectria	Pyramidospira	Stereum	Symptodiella	Zelleromyces	Zygodesmus
Pseudopeziza	Pyrenopeziza	Sterigmatomyces	Symptodiomyces	Zoophagus	Zygopleura
Pseudospiropes	Pyrenophora	Sterigmatosporidium	Sympodiophora	Zoophthora	Zygorhynchus
Psilocybe	Pyrenula	Stigmata	Syncephalastrum	Zopfiella	Zygosaccharomyces
Pteridiosperma	Pyronema	Stilbella	Syncephalis	Zychaea	Zythia
Pteridiospora	Pythiosis	Stilbum	Synnematium		
Pterula	Pythium	Strattonia	Synpenicillium		
Ptychogaster		Striatosphaeria	Syringospora		
		Szygites			
Radiomyces	Rhizophylyctis	Talaromyces	Trechispora		
Radulodon	Rhizophydium	Taphrina	Trematosphaeria		
Radulomyces	Rhizopogon	Teichospora	Tremella		
Raffaelea	Rhizosphaera	Teratosperma	Triadelphia		
Ramalina	Rhodoseptoria	Termitomyces	Triangularia		
Ramaria	Rhodosporeidium	Tetrachaelum	Tricellula		
Ramaricium	Rhodosticta	Tetracadium	Trichaptum		
Ramichloridium	Rhodotorula	Tetracoccosporium	Trichocladium		
Ramularia	Rhodotus	Tetraploa	Trichodelitichia		
Ramulispora	Rhynchosporium	Thallomicrosporon	Tricholoma		
Remispora	Rhyarobius	Thamnidium	Trichometasphaeria		
Renispora	Riessia	Thamnostylium	Trichophaea		
Resinicium	Rigidoporus	Thanatephorus	Trichoscyphella		
Respinatus	Robillarda	Thecotheus	Trichosporon		
Rhexothecium	Rogersiomyces	Thelebolus	Trichosporonoides		
Rhinocladia	Rollandina	Thelephora	Trichurus		
Rhinotrichum	Rosulomyces	Thermosporium	Tricladium		
Rhizomucor	Rutstroemia	Thermomucor	Tridentaria		
		Thermomyces	Trigonopsis		
		Thermophymatospora	Triparticalcar		
		Thielavia	Tripodoporum		
		Thielaviopsis	Tripodopora		
		Thozetella	Tripterospira		
		Thraustochytrium	Triscelophorus		
		Thraustotheca	Tritirachium		
		Thyronectria	Trochophora		
		Thysanophora	Tropoporella		
		Tieghemomyces	Truncatella		
		Tilachlidium	Truncocolumella		
		Tilletia	Tryblidiella		
		Tilletiaria	Tubakia		
		Tilletiopsis	Tuber		
		Tinctoporellus	Tubercularia		
		Titaeospora	Tuberculina		
		Torpedospora	Tubeufia		
		Torula	Tubulicrinis		
		Torulaspora	Tylophilus		
		Torulopsis	Tympanosporium		
		Toxotrichum	Typhula		
		Trametes	Tyromyces		
		Ulocladium	Urnula		
		Ulocoryphus	Usnea		
		Umbelopsis	Ustilaginoides		
		Umbilicaria	Ustilago		
		Uncinocarpus	Utharomyces		
		Valdensia	Veronae		
		Valsa	Verticillidiella		
		Valsaria	Verticillidium		
		Valseutypella	Virgaria		
		Vanbeverwijkia	Volucrispora		
		Vanterpoolia	Volutella		
		Varicosporina	Volutina		
		Varicosporium	Volvariella		
		Venturia			
		Wallemia	Wickerhamia		
		Wallrothiella	Wickerhamiella		
		Waltomyces	Wiesneriomyces		
		Warcupia	Wilcoxina		
		Wardomyces	Wingea		
		Westerdykella	Wojnowicia		
		Whetzelinia			
		Xanthoria	Xylobolus		
		Xanthothecium	Xylocoremium		
		Xenasmatella	Xylogone		
		Xenomeria	Xylomyces		
		Xenosporium	Xynophila		
		Xylaria			

Dated: February 23, 1989.

Michael E. Zacharia,  
Assistant Secretary for Export  
Administration.

[FR Doc. 89-4532 Filed 2-23-89; 12:53 pm]

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## 15 CFR Parts 779 and 793

[Docket No. 90123-9023]

Revisions to the Commodity Control  
List Based on COCOM Review: Metal-  
Working Machinery, etc.AGENCY: Bureau of Export  
Administration, Department of  
Commerce.

ACTION: Final rule.

**SUMMARY:** The Bureau of Export Administration maintains the Commodity Control List (CCL), which identifies those items subject to Department of Commerce export controls. This rule amends a number of Export Control Commodity Numbers on the CCL in the following commodity groups: Group 0 (Metal-Working Machinery), Group 1 (Chemical and Petroleum Equipment), Group 2 (Electrical and Power-Generating Equipment), Group 3 (General Industrial Equipment), Group 4 (Transportation Equipment), Group 5 (Electronics and Precision Instruments), and Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials). This rule also amends Supplement No. 3 (Computer Software) to Part 779 of the Export Administration Regulations.

These revisions have resulted from a review of strategic controls maintained by the U.S. and certain allied countries through the Coordinating Committee (COCOM). Such multilateral controls restrict the availability of strategic items to controlled countries. This rule raises the levels of goods that can be shipped to the PRC under a number of advisory notes, and adds new PRC advisory notes. It also decontrols, world-wide, certain items that had been included in advisory notes for the Soviet Bloc. With the concurrence of the Department of Defense, the Department of Commerce has determined that this rule is consistent with the U.S. national security provisions of the Export Administration Act of 1979, as amended.



**EFFECTIVE DATE:** This rule is effective February 28, 1989.

**FOR FURTHER INFORMATION CONTACT:**

For questions of a technical nature on chemical and petroleum equipment, call George Kuzmich, Office of Technology and Policy Analysis, Telephone: (202) 377-5696.

For questions of a technical nature on general industrial equipment, call Larry Hall, Office of Technology and Policy Analysis, Telephone: (202) 377-8550.

For questions of a technical nature on transportation equipment, call Bruce Webb, Office of Technology and Policy Analysis, Telephone: (202) 377-3806.

For questions of a technical nature on semiconductor manufacturing equipment, call Robert Anstead, Office of Technology and Policy Analysis, Telephone: (202) 377-1641.

For questions of a technical nature on communications equipment, call Milton Baltas, Office of Technology and Policy Analysis, Telephone: (202) 377-0730.

For questions of a technical nature on computer systems or software, call Raj Dheer, Computer Systems Technology Center, Telephone: (202) 377-0708.

For questions of a technical nature on chemicals, metalloids, petroleum products and related materials, call Jeff Tripp, Office of Technology and Policy Analysis, Telephone: (202) 377-1309.

**SUPPLEMENTARY INFORMATION:**

**Rulemaking Requirements**

1. This rule complies with Executive Order 12291 and Executive Order 12661.

2. This rule involves collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under control numbers 0694-0005, 0694-0010, 0694-0013, and 0694-0024. The reporting burden for these collections of information is estimated to be: for 0694-0005 and 0694-0010, 45 minutes per response; for 0694-0013, 2 hours per response; and for 0694-0024, 30 minutes per response. These times include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections. Send comments regarding the burden estimates or any other aspect of these collections of information, including suggestions for reducing this burden, to the Office of Security and Management Support, Bureau of Export Administration, U.S. Department of Commerce, Washington, DC 20230; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington,

DC 20503—ATTN: Paperwork Reduction Project (0694-0005, 0694-0010, 0694-0013, and 0694-0024).

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553), or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

5. Section 13(a) of the Export Administration Act of 1979, as amended (EAA) (50 U.S.C. app. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date. This rule is also exempt from these APA requirements because it involves a foreign and military affairs function of the United States. Section 13(b) of the EAA does not require that this rule be published in proposed form because this rule does not impose a new control. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Willard Fisher, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

**List of Subjects in 15 CFR Parts 779 and 799**

Computer technology, Exports, Reporting and recordkeeping requirements, Science and technology.

Accordingly, Parts 779 and 799 of the Export Administration Regulations (15 CFR Parts 768-799) are amended as follows:

1. The authority citation for 15 CFR Parts 779 and 799 continues to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*) as amended by Pub. L. 97-145 of December 29, 1981, by Pub. L. 99-64 of July 12, 1985, and by Pub. L. 100-418 of August 23, 1988; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 95-223 of December 28, 1977 (50 U.S.C. 1701 *et seq.*);

E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985) as affected by notice of September 4, 1986 (51 FR 31925, September 8, 1986); Pub. L. 99-440 of October 2, 1986 (22 U.S.C. 5001 *et seq.*); and E.O. 12571 of October 27, 1986 (51 FR 39505, October 29, 1986).

**PART 779—[AMENDED]**

2. Supplement No. 3 to Part 779, "Computer Software", is amended by adding Advisory Notes 1 and 2 (formerly reserved) and redesignating them as Notes 1 and 2 and by removing and reserving Advisory Notes 3 and 4, and by revising Advisory Note 5 as follows:

**Supplement No. 3 to Part 779 Computer Software**

\* \* \* \* \*

**Advisory Notes**

**Note 1:** Paragraphs (a) and (b) of this Supplement No. 3 to Part 779 do not control "software" not exceeding 5,000 statements in "source language", excluding data, provided that:

(a) The "software" is neither designed nor modified for use as a module of a larger "software" module or system that in total exceeds this limit; and

(b) The "software" is not controlled by subparagraph (b)(5) of this Supplement.

**Note 2:** Paragraphs (a) and (b) of this Supplement No. 3 to Part 779 do not control "software" initially exported to a proscribed destination prior to January 1, 1984, provided that:

(a) The "software" is identical to and in the same language form (source or object) as initially exported, allowing minor updates for the correction of errors that do not modify the initially exported functions;

(b) The accompanying documentation does not exceed the level of the initial export; and

(c) The "software" is exported to the same proscribed destination as the initial export.

**Advisory Note 3:** Reserved.

**Advisory Note 4:** Reserved.

**Advisory Note 5:** Licenses are likely to be approved for export to satisfactory end-users in Country Groups QWY, the People's Republic of China (PRC) and Afghanistan of "application software" controlled by subparagraph (a)(1) above, but not otherwise listed in this Supplement or ECCNs on the Commodity Control List identified by the code letter "A", provided that:

(a) The "application software" is designed for and limited to the following:

(1) The approved end-use of legally exported equipment or systems in conjunction with any computer that is part of a computer series produced within a controlled area and based on a design originating in a COCOM country; or

(2) The monitoring and control of industrial processes limited to the production of items not described by ECCNs on the Commodity Control List identified by the code letter "A", by the International Traffic in Arms Regulations, by 10 CFR 110 or by 10 CFR 810; and



- (b) No restricted technical data is provided.

## PART 799—[AMENDED]

### Supplement No. 1 to § 799.1 [Amended]

3. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group O (Metal-Working Machinery), ECCN 1091A is amended by revising sub-paragraph (a)(i), by removing (Advisory) Note 1, by revising (Advisory) Note 2 and redesignating it as "Note 1", by redesignating (Advisory) Note 3 as "(Advisory) Note 2", and by redesignating the Advisory Note for the People's Republic of China as "(Advisory) Note 3 for the People's Republic of China", as follows:

**1091A Numerical control units, numerically controlled machine tools, dimensional inspection machines, direct numerical control systems, specially designed sub-assemblies, and specially designed "software".** (See § 776.11 for special information to include on the validated license application and reexport request.)

#### List of Commodities Controlled by ECCN 1091A

(a) Units for numerically controlling simultaneously coordinated (contouring and continuous path) movements of machine-tools and dimensional inspection machines in two or more axes, *except* those having all of the following characteristics:

(i) No more than three contouring interpolating (any mathematical function including linear and circular) axes can be simultaneously coordinated. Units may have:

(1) One or more additional axes for which rate of movement is not coordinated, varied or modulated with that of another axis;

(2) One additional set of up to three contouring axes provided a separate feed rate number, standard or optional, does not control more than any three contouring axes; or

(3) Up to three contouring axes switchable out of any number of axes;

(d) \* \* \*

#### Technical Notes: 1. \* \* \*

**Note 1:** This ECCN 1091A does not control floor-type horizontal boring mills described in sub-paragraph (b)(i) above provided that all the following conditions are met:

(a) Maximum transverse (X-axis) travel equal to or less than 15,000 mm (600.0 in.);

(b) Maximum vertical (Y-axis) travel equal to or less than 5,000 mm (200.0 in.);

(c) Maximum Z-axis travel equal to or less than 3,000 mm (120.0 in.);

(d) Spindle-drive motor power equal to or less than 75 kW (100 hp);

(e) Meeting the requirements of sub-paragraphs (b)(i)(1) and (b)(i)(4) to (7) above.

(Advisory) Note 2: \* \* \*

4. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 1 (Chemical and Petroleum Equipment), ECCN 1129A is amended by adding an Advisory Note for the People's Republic of China at the end of the entry, as follows:

**1129A Vacuum pump systems and specially designed components, controls, and accessories therefor.**

(Advisory) Note for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of cryopump systems designed to operate at temperatures of higher than -280°C measured at atmospheric pressure and intended for use in the manufacture of compact and video discs.

5. In Supplement No. 1 to § 799.1, (the Commodity Control List), Commodity Group 2 (Electrical and Power-Generating Equipment), ECCN 1203A is amended by redesignating the Advisory Note as "(Advisory) Note 1" and by adding an (Advisory) Note 2 for the People's Republic of China, as follows:

**1203A Electric furnaces, specially designed components and controls therefor.**

(Advisory) Note 1: \* \* \*

(Advisory) Note 2 for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of skull type vacuum arc furnaces with a capacity not exceeding 500 kg.

6. In Supplement No. 1 to § 799.1, (the Commodity Control List), Commodity Group 3 (General Industrial Equipment), ECCN 1353A is amended by revising (Advisory) Note 3 for the People's Republic of China, as follows:

**1353A Manufacturing and testing equipment for optical fiber, optical cable and other cables, as follows, and specially designed components and "specially designed software" therefor.**

(Advisory) Note 3 for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of the following:

(a) Optical fiber or preform characterization equipment using semiconductor lasers with a wavelength of 1,370 nm or less;

(b) Equipment specially designed for the manufacture of silica-based optical preforms, fiber or cable.

7. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 3 (General Industrial Equipment), ECCN 1354A is amended by revising the Advisory Note for the People's Republic of China, as follows:

**1354A Equipment designed for the manufacture or testing of printed circuit boards and specially designed components and accessories therefor.**

(Advisory) Note for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of equipment for the manufacture of printed circuit boards, as follows:

(a) Equipment specially designed for the removal of resists or printed circuit board materials by dry (e.g., plasma) methods;

(b) "Stored program controlled" multi-spindle drills with the following characteristics:

(1) Absolute positioning accuracy of  $\pm 5$  micrometers or worse; and

(2) X and Y positioning speeds of 0.210 m/sec. or slower for drilling or for routing;

(c) "Stored program controlled" routers that are not capable of three-dimensional contouring operations;

(d) Work-table positioning systems for digitizing and editing drilling positions from printed circuit art work for the generation of data or "programs" for "stored-program-controlled" printed circuit board drilling equipment;

(e) "Stored program controlled" electrical test equipment controlled for export by sub-paragraph (e), for the identification of open and short circuits on bare printed circuit boards.

8. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 3 (General Industrial Equipment), ECCN 1355A is amended by revising (Advisory) Notes 1 and 2 for the People's Republic of China, as follows:

**1355A Equipment for the manufacture or testing of electronic components and materials; and specially designed components, accessories and "specially designed software" therefor.**

(Advisory) Note 1 for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of equipment, as follows, for use in silicon semiconductor manufacturing:

(a) Equipment for the production of polycrystalline silicon;

(b) Crystal pullers, *except* those that:

(1) Are rechargeable without replacing the crucible; or

(2) Operate at pressures above  $2.5 \times 10^6$  pascals (2.5 atmosphere absolute) and have any of the following features:

(i) Two or more temperature zones;

(ii) "Stored program controlled";

(iii) Anomaly shape control;



(iv) Produce ingots of more than 50.8 mm (2 inches) in diameter; or

(v) Produce ingots of more than 1 kg in mass;

Note: No process technology to be supplied.

(c) Diffusion furnaces, *except* those that use computer feedback control operated from an "associated" computer.

Note: "Associated" with equipment or systems means:

(a) Can feasibly be either:

(i) Removed from the equipment or systems; or

(ii) Used for other purposes; and

(b) Is not essential to the operation of such equipment or systems.

(d) Vacuum induction-heated zone refining equipment;

(e) Epitaxial reactors, *except* those that are:

(1) For molecular beam epitaxy; or

(2) Specially designed for organo-metallic deposition or liquid-phase epitaxy;

(f) Magnetically enhanced multiple wafer sputtering equipment;

(g) Ion implantation, ion-enhanced or photo-enhanced diffusion equipment, *except* those having any of the following characteristics:

(1) Patterning capability;

(2) Accelerating voltage for more than 200 keV; or

(3) Capable of high energy oxygen implant into a heated substrate;

(h) Dry etching equipment controlled for export by sub-paragraph (b)(1), as follows:

(1) "Batch types" not having:

(i) End point detection other than optical emission spectroscopy types; or

(ii) Cryogenic or turbomolecular pumps;

(2) "Single wafer types" not having:

(i) End point detection other than optical emission spectroscopy types;

(ii) Cryogenic or turbomolecular pumps; or

(iii) Load locks;

Notes: 1. "Batch types" refers to dry etching machines that are not specially designed for production processing of single wafers. Such machines can process two or more wafers simultaneously with common process parameters, e.g., RF power, temperature, etch gas species, flow rates.

2. "Single wafer types" refers to dry etching machines that are specially designed for production processing of single wafers. These machines may use automatic wafer handling techniques to load a single wafer into the equipment for processing. The definition includes equipment that can load and process several wafers but where the etching parameters, e.g., RF power or end point, can be independently determined for each individual wafer.

(i) Low-pressure chemical vapor deposition equipment, *except* equipment capable of metal deposition;

(j) [Reserved]

(k) Single-side lapping and polishing equipment for wafer surface finishing;

(1) Hard surface (e.g., chromium, silicon, iron oxide) coated substrates (e.g., glass, quartz, sapphire) for the preparation of masks having dimensions greater than 12.5 cm x 12.5 cm;

(m) Mask fabrication equipment using photo-optical methods that was either

commercially available before January 1, 1980, or has a performance no better than such equipment;

(n) Manually operated mask inspection equipment;

(o)(1) Photo-optical contact and proximity mask align and expose equipment defined in sub-paragraph (b)(2)(vi);

(2) Projection aligners, defined in sub-paragraph (b)(2)(vi), provided such equipment cannot produce pattern sizes finer than 3 micrometers;

(3) Wafer steppers, defined in sub-paragraph (b)(2)(viii), provided they have all of the following characteristics:

(i) Cannot produce pattern sizes finer than 3 micrometers;

(ii) An alignment accuracy no better than  $\pm 0.25$  micrometers (3 sigma); and

(iii) Machine-to-machine overlay no better than  $\pm 0.3$  micrometers;

(p) Contact image transfer equipment;

(q) Wafer and chip inspection equipment that was either commercially available before January 1, 1981, or has a performance no better than such equipment;

(r) Equipment for concurrent etching and doping profile analysis employing capacitance-voltage or current-voltage analysis techniques;

(s) "Stored program controlled" wire or die bonders;

(5) "Stored program controlled" wafer probing equipment that does not include associated test equipment or drive circuitry other than those identified in (u) or (v) below:

(u) Test equipment for:

(1) Television circuit testing;

(2) Operational amplifier testing;

(3) Voltage regulator testing;

(4) Analog-to-digital and digital-to-analog converter testing; or

(5) Discrete semiconductor testing at frequencies of 18 GHz or less;

(v) "Stored program controlled" equipment for the functional testing (truth table) of integrated circuits or integrated circuit assemblies capable of either:

(1) Generating a basic pattern rate of 10 MHz or less; or

(2) Generating a basic pattern rate of more than 10 MHz but no more than 20 MHz and limited to testing integrated circuits with 64 or fewer pins.

(Advisory) Note 2 for the People's Republic of China: Licenses will receive favorable consideration for export to satisfactory end-users in the People's Republic of China of equipment controlled for export by sub-paragraphs (b)(1) or (b)(2) that can produce patterns finer than 3 micrometers but not finer than 2 micrometers.

9. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 3 (General Industrial Equipment), ECCN 1361A is amended by revising paragraph (a), by removing (Advisory) Note 1, and by redesignating (Advisory) Note 2 as "(Advisory) Note".

1361A Test facilities and equipment for the design or development of aircraft or gas turbine aero-engines, and specially designed components, and accessories therefor.

List of Wind Tunnels Controlled by ECCN 1361A

(a) Supersonic (Mach 1.4 to Mach 5), hypersonic (Mach 5 to Mach 15) and hypervelocity (above Mach 15) wind tunnels, *except*:

(i) Supersonic Mach 1.4 to Mach 5) wind tunnels not specially designed for, or fitted with means of, preheating the air; or

(ii) Wind tunnels specially designed for educational purposes and having a "test section size" (measured internally) of less than 25 cm (10 inches);

Technical Note: "Test section size" is understood to be the diameter of the circle, or the side of the square, or the longest side of the rectangle constituting possible shapes of the test section.

(Advisory) Note: (Not Eligible for General License G-COM) \*\*\*

10. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 4 (Transportation Equipment), ECCN 1485A is amended by adding an (Advisory) Note for the People's Republic of China at the end of the entry, as follows:

1485A Compasses, gyroscopes (gyros), accelerometers and inertial equipment, and specially designed components therefor. (See also ECCN 1385A).

(Advisory) Note for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of equipment controlled for export under subparagraph (b), as follows: Reasonable quantities of integrated flight instrumentation systems spare parts, constituting up to a six-month supply of such parts at normal rates of consumption for aircraft previously exported to the People's Republic of China under the (Advisory) Note for the People's Republic of China to entry 1460A, provided that they are replacement parts for equipment previously installed.

11. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1501A is amended by revising Technical Note 1 that follows the Note at the end of paragraph (a)(4); by revising paragraph (b)(1); by revising Note 2 (formerly reserved) that follows paragraph (b)(1)(v); by removing Note 3 following Note 2; by removing (Advisory) Notes 1 and 2; and by



redesignating (Advisory) Note 3 as (Advisory) Note, as follows:

**1501A Navigation, direction finding, radar and airborne communication equipment**

**List of Navigation, Direction Finding, Radar and Airborne Communication Equipment Controlled by ECCN 1501A**

(a) \*\*\*

(4) \*\*\*

Note: \*\*\*

**Technical Note 1:** The terms "civil aircraft" and "civil helicopter" are understood to include only those types of "civil aircraft" and "civil helicopters" that are listed by designation in published airworthiness certification lists by the civil aviation authorities to fly commercial civil internal and external routes or for legitimate civil, private or business use.

(b) Navigation and direction finding equipment, as follows, specially designed components therefor, and specialized testing, calibrating and training/simulating equipment therefor:

(1) Airborne navigation equipment and direction finding equipment, as follows:

(i) Designed to make use of Doppler frequency phenomena, *except* navigation equipment to be installed in "civil aircraft" and "civil helicopters", and which is normal standard equipment of a type installed in "civil aircraft" and "civil helicopters" in a Western country.

Note: Technical data for navigation equipment using Doppler frequency phenomena remains controlled for export.

(ii) Utilizing the constant velocity or the rectilinear propagation characteristics of electromagnetic waves having a frequency less than  $4 \times 10^{14}$  Hz (0.75 micrometer);

(iii) Radio altimeters, the following:

(a) Pulse modulated;

(b) Frequency modulated having a displayed electrical output accuracy better than  $\pm 0.914$  m ( $\pm 3$  feet) over the range between 0 and 30.4 m (100 feet) or better than  $\pm 3\%$  above 30.4 m (100 feet), *except* standard commercial airborne equipment needed to equip "civil aircraft" or "civil helicopters" or as normal standard equipment incorporated in "civil aircraft" or "civil helicopters" being exported for civil commercial use, provided such equipment is equivalent in all characteristics and performance to standard equipment of aircraft not subject to control for export, and which are frequency-modulated radio altimeters which have been in normal civil use for a period of more than one year.

Note: Technical data for these radio altimeters remains controlled for export.

(c) Frequency modulated which have been in normal civil use for less than one year.

**Technical Note:** The accuracy is related to that provided by the electrical output circuits of the altimeter at any altitude. The word accuracy also refers to the equipment's accuracy over time. This accuracy over time is defined for the instrument itself without reference either to a calibrated value or to a designated electrical value.

(iv) \*\*\*

(v) \*\*\*

Notes: 1. \*\*\*

2. Direction finding equipment specially designed for search and rescue purposes and operating at a frequency of 121.5 Mhz or 243 MHz is not covered by this sub-paragraph (b). This exclusion also applies to personal locator beacons operating in this form that may also have an additional channel selectable for voice mode only.

12. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1502A is amended by redesignating Advisory Note 5 for the People's Republic of China as "(Advisory) Note 5 for the People's Republic of China" and by adding an (Advisory) Note 6 for the People's Republic of China at the end of the entry, as follows:

**1502A Communication, detection or tracking equipment of a kind using ultraviolet radiation, infrared radiation or ultrasonic waves, and specially designed components therefor.**

(Advisory) Note 5 for the People's Republic of China: \*\*\*

(Advisory) Note 6 for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of underwater ultrasonic communications equipment that does not:

(a) Use electronic beam steering;

(b) Incorporate any encryption technique; or

(c) Have a carrier frequency outside the range 20 to 60 kHz.

(For communications equipment employing fiber optics, see ECCN 1519A.)

13. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1510A is amended by adding a new Note 7 following Note 6, by redesignating (Advisory) Note 7 as (Advisory) Note 8, and by redesignating the Advisory Note for the People's Republic of China as (Advisory) Note 9 for the People's Republic of China, as follows:

**1510A Marine or terrestrial acoustic or ultrasonic systems or equipment specially designed for positioning surface vessels or underwater vehicles, or for detecting or locating underwater or subterranean objects or features, and specially designed components of such systems or equipment, including but not limited to hydrophones, transducers, beacons, towed hydrophone arrays, beamformers and geophones (except moving coil or moving magnet electromagnetic geophones), except those systems or equipment listed below.**

Note 6: \*\*\*

Note 7: Nothing in this Note shall be construed as permitting the export of technical data for the following equipment. This ECCN 1510A does not control towed acoustic hydrophone arrays having all of the following characteristics:

(a) Not specially designed for operation at greater than 100 meters depth or at low speeds in excess of 8 knots;

(b) Not incorporating temperature or heading sensors;

(c) Having hydrophone groups uniformly spaced at not less than 25 meters and not more than 60 meters;

(d) Having an assembled diameter of 40 mm or greater and using metallic strength members only;

(e) Not having multiplexed hydrophone group signals;

(f) Not having a configuration for multiple or overlapping acoustic aperture operation;

(g) Not having characteristics better than those specified in sub-paragraphs (a)(2)(i) and (ii) above;

(h) Not having associated processing equipment that provides any of the following features:

(1) Electronically-steerable beamforming capabilities;

(2) Side-lobe suppression techniques such as shading coefficients;

(3) On-line real-time processing or off-line batch pre-processing capabilities exceeding the limits specified in entries 1529A and 1565A.

(Advisory) Note 8: \*\*\*

(Advisory) Note 9 for the People's Republic of China: \*\*\*

14. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1520A is amended by removing the "GFW eligibility" paragraph and by revising (Advisory) Notes 1 and 2 and redesignating them as Notes 3 and 4 and by redesignating (Advisory) Note 3 for the People's Republic of China as (Advisory) Note for the People's Republic of China, as follows:



**1520A Radio relay communication equipment, specially designed test equipment, and specially designed components and accessories therefor.**

**List of Equipment Controlled by ECCN 1520A**

(b) \* \* \*

**Note 3:** This ECCN 1520A does not control equipment permanently installed in a circuit operated by the civilian authorities of the importing country for civil television transmission or for general commercial traffic or technical data for the installation, maintenance, and operation therefor, provided that:

(a) The equipment is not designed for operation at a total bit rate exceeding 45 Mbit per second;

(b) The equipment does not employ quadrature-amplitude-modulation (QAM) techniques; and

(c) Associated or integrated multiplex equipment is considered separately under the provisions of ECCN 1519A.

**Note 4:** This ECCN 1520A does not control equipment for civil industrial use, e.g., remote supervision, control and metering of oil and gas pipelines, civil public utility services (e.g., electricity networks) including telephone channels for the operation of such networks and the engineering service circuits required for the maintenance of telecommunication links or technical data for the installation, maintenance, and operation therefor, provided:

(a) Microwave radio links employing analog transmission techniques have a capacity not exceeding 2,700 voice channels of 4 kHz each;

(b) Microwave radio links employing digital transmission techniques operate at a frequency not exceeding 19.7 GHz and are designed to operate at a total digital bit rate not exceeding 45 Mbits per second;

(c) The equipment does not employ quadrature-amplitude-modulation (QAM) techniques; and

(d) Associated or integrated multiplex equipment is considered separately under the provisions of ECCN 1519A.

**(Advisory) Note for the People's Republic of China:** \* \* \*

15. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1522A is amended by revising Note 1 following Technical Note 4, by removing (Advisory) Notes 6 and 7, and by redesignating (Advisory) Note 8 for the People's Republic of China as (Advisory) Note 6 for the People's Republic of China, as follows:

**1522A "Lasers" and "equipment containing lasers".**

**List of "Lasers" and "Equipment Containing Lasers" Controlled by ECCN 1522A**

Technical Note 4: \* \* \*

**Note 1:** Nothing in the following shall be construed as permitting the export of technical data for the following equipment, except for the minimum technology for their use (i.e., installation, operation and maintenance):

(a) Paragraph (a) of this ECCN 1522A does not control uncooled, unsegmented mirrors with glass or dielectric substrates for use as end reflectors for "laser" resonators. (For segmented mirrors, see ECCN 1556A.)

(b) This ECCN 1522A does not control equipment listed in paragraph (b) containing "lasers" described in sub-paragraphs (a)(vi)(1) and (a)(vii) provided that the "lasers" have a maximum pulsed output not exceeding 2 joules per pulse;

(c) This ECCN 1522A does not control Nd:YAG "lasers" used for pumping "tunable" pulsed dye "lasers" excluded from control under sub-paragraph (a)(ix), and having all of the following characteristics:

(1) An output wavelength of 1.064 micrometer;

(2) A pulsed output energy not exceeding 1.5 joule per pulse; and

(3) A maximum rated average single- or multi-mode output power not exceeding 25 W.

**(Advisory) Note 6 for the People's Republic of China:** \* \* \*

16. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1526A is amended by adding an (Advisory) Note 5 for the People's Republic of China at the end of the entry, as follows:

**1526A Optical fibers, optical cables and other cables and components and accessories.**

**(Advisory) Note 5 for the People's Republic of China:** Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of optical fibers controlled by sub-paragraph (d)(2), when exported for identifiable civil applications, having all of the following characteristics:

(a) Not fabricated to be nuclear radiation sensitive;

(b) A "beat length" of more than 50 cm (low birefringence); and

(c) Not optimized for operation at any wavelength exceeding 1,370 nm.

17. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1529A is amended by removing the "GFW eligibility" paragraph and by revising sub-paragraph (b)(4), by revising Note 1 following sub-paragraph (b)(4), by removing (Advisory) Note 2, and by redesignating (Advisory) Note 3 for the People's Republic of China as (Advisory) Note 2 for the People's Republic of China, as follows:

**1529A Electronic equipment for testing, measuring (e.g., time interval measurement), calibrating or counting, or for microprocessor/microcomputer development.**

**List of Equipment Controlled by ECCN 1529A**

(b) \* \* \*

(4) Instruments having both of the following characteristics:

(i) "User-accessible programmability", and

(ii) A user-alterable "program" and data storage of more than 65,536 bit.

**Note 1:** This sub-paragraph (b)(4) does not control:

(a) Instruments, the "user-accessible programmability" of which is provided by, or with the legal agreement of, the original "manufacturer" and limited to:

(1) The replacement of fixed storage devices (e.g., ROMs) that do not change the controlled status of the instrument; or

(2) The selection of preprogrammed functions from a menu.

(b) Instruments that:

(1) Have been designed for non-strategic use and by nature of design, "software", "microprogram" control ("firmware"), specialized logic control (hardware) or performance are substantially restricted to the particular application for which they have been designed; and

(2) Are not covered by any other part of this ECCN 1529A and do not exceed the limits of Note 6 to ECCN 1565A.

**Note:** \* \* \*

**Note 2:** \* \* \*

18. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1533A is amended by removing paragraph (d), by removing Notes 1 and 2 following sub-paragraph (d)(2), by redesignating paragraphs (e) through (i) as paragraphs (d) through (h) respectively, by removing (Advisory) Note 5, by redesignating (Advisory) Note 6 as (Advisory) Note 5, and by redesignating (Advisory) Note 7 for the People's Republic of China as (Advisory) Note 6 for the People's Republic of China.

19. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1537A is amended by revising (Advisory) Note 7 for the People's Republic of China, as follows:



1537A Microwave, including millimetric wave equipment, including parametric amplifiers capable of operating at frequencies over 1 GHz (other than microwave equipment controlled for export by ECCNs 1501A, 1517A, 1520A, or 1529A).

(Advisory) Note 7 for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of:

(a) Amplifiers, controlled by paragraph (k), when designed for use with signal analyzers described in Note 3 to ECCN 1533A and designed for a maximum operating frequency not exceeding 2 GHz, provided that these amplifiers are not radiation hardened or "space-qualified";

(b) PIN modulators controlled by paragraph (1), designed for use at frequencies not exceeding 10.5 GHz.

Note: \* \* \*

20. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1558A is amended by adding a new Note 2 following Note 1 and by revising (Advisory) Note 2 and redesignating it as (Advisory) Note 3, as follows:

1558A Electronic vacuum tubes (valves) and cathodes and other components specially designed for those tubes.

Note 1: \* \* \*

Note 2: Nothing in the following shall be construed as permitting the export of technical data. Paragraphs (b) and (c) of this ECCN 1558A do not control magnetrons and klystrons specially designed for particle accelerators for medical radiation therapy, having all of the following characteristics:

(a) Capable of operation only at a frequency of 3,000 MHz  $\pm$  15 MHz or at a frequency of 2,856 MHz  $\pm$  15 MHz;

(b) Not capable of being tuned mechanically or electronically outside the above bands;

(c) Mechanically tuned within the above bands; and

(d) Having a peak output power not exceeding 10 MW and having an average output power not exceeding 15 kW.

(Advisory) Note 3: Licenses are likely to be approved for export to satisfactory end-users in Country Groups QWY of the following:

(a) Tubes controlled by paragraphs (a), (b), or (c) of this ECCN, required as replacement parts for specific civilian equipment not exceeding the capability of that which could be exported under other Commodity Control List ECCNs designated by the code letter "A", provided that these parts do not upgrade the initial performance of that equipment;

(b) Pulsed amplifier klystrons and fixed frequency and mechanically tunable pulsed magnetrons controlled by paragraphs (b) or (c) of this ECCN, intended for civil radar equipment previously exported, provided that they do not upgrade the initial performance of that equipment.

21. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1564A is amended by revising (Advisory) Note 6 for the People's Republic of China, as follows:

1564A "Assemblies" of electronic components, "modules", printed circuit boards with mounted components, "substrates" and integrated circuits, including packages therefor.

(Advisory) Note 6 for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of "assemblies", printed circuit boards and integrated circuits not specially designed to military standards for radiation hardening or temperature, as follows:

(a) "Substrates" for printed circuit boards, except those exceeding the limit of sub-paragraph (a)(2);

(b) Patterned "substrates" for printed circuit boards that exceed the limits of sub-paragraph (a)(1)(E), when specially designed for use in civil applications listed in sub-paragraphs (d)(2)(D)(f)(2), (d)(2)(D)(g)(3), or (d)(2)(D)(h)(2);

(c) Silicon-based devices exceeding the limits of:

(1) Sub-paragraphs (d)(2)(D)(a), (b), or (c), except those with more than 28 terminals;

(2) Sub-paragraphs (d)(2)(D)(g) or (h);

(3) Sub-paragraphs (d)(2)(D)(k), (l), (m)(4) and (5), (n), (r), (s), or (u); or

(4) Sub-paragraphs (d)(2)(D)(f) or (q);

(d) Silicon based 8-bit or less "microcomputer microcircuits" exceeding the limits of sub-paragraphs (d)(2)(D)(e)(1) to (4), (6), and (7);

(e) Silicon based "microprocessor microcircuits" with an operand length of 16 bit or less and an arithmetic logic unit (ALU) not wider than 32 bit and exceeding the limits of sub-paragraphs (d)(2)(D)(i)(1) to (6), except:

(1) Those with a total processing data rate exceeding 28 million bits per second;

(2) Bit-slice "microprocessor microcircuits";

(f) Silicon based memory devices, as follows:

(1) MOS DRAMs with no more than 256 Kbit;

(2) MOS SRAMs with no more than 64 Kbit;

(3) Mask PROMs with no more than 512 Kbit;

(4) UV-EPROMs (except keyed access EPROMs) with no more than 256 Kbit;

(5) EAROMs with no more than 64 Kbit;

(6) EEROMs with no more than 64 Kbit; Note: 1 Kbit=1,024 bit.

(g) Operational amplifiers exceeding the limits of sub-paragraph (d)(2)(D)(k)(4) that do not have a slew rate exceeding 100 volt per microsecond;

(h) Analog-to-digital and digital-to-analog converters exceeding the limits of sub-paragraph (d)(2)(D)(m)(1) to (3), except:

(1) Analog-to-digital converters with less than a 500 ns conversion time and a maximum resolution of 12 bit;

(2) Digital-to-analog converters with less than 500 ns settling time for voltage output and a maximum resolution of 12 bit;

(3) Digital-to-analog converters with less than 25 ns settling time for current output and a maximum resolution of 12 bit;

(i) Silicon based 8-bit or less user-programmable single chip "microcomputer microcircuits" controlled by sub-paragraph (d);

(j) "Optical integrated circuits";

(1) Controlled by sub-paragraph (d);

(2) With no more than 2,048 elements; and

(3) Not exceeding the limits of paragraphs (a) and (b) of ECCN 1548A;

(k) Non-reprogrammable silicon based integrated circuits specially designed or programmed by the "manufacturer" for business or office use;

(l) Sample and hold integrated circuits exceeding the limits of sub-paragraph (d)(2)(D)(p) with an acquisition time of no less than 500 ns.

22. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1565A is amended by revising paragraph (c), by adding new Technical Notes 1 through 3 following paragraph (c), by removing and reserving Advisory Note 3, and by revising Advisory Note 20 (for the People's Republic of China), as follows:

1565A Electronic computers, "related equipment", equipment or systems containing electronic computers; and specially designed components and accessories therefor.

List of Electronic Computers and Related Equipment Controlled by ECCN 1565A

(c) "Analog computers" and "related equipment" therefor, other than those controlled by paragraph (a), except:

(1) Those which neither:

(i) Are capable of containing more than 20 summers, integrators, multipliers or function generators; nor

(ii) Have facilities for readily varying the interconnections of such components; or

(2) Those which are limited as follows:

(i) They use neither:

(A) Optical computation devices; nor

(B) Acoustic wave devices controlled by ECCN 1586A other than those exportable as an administrative exception pursuant to (Advisory) Note 1 to ECCN 1586A;

(ii) The rated errors for summers, inverters and integrators are not less than:

(A) Static: 0.01%;

(B) Total at 1 kHz: 0.15%;

(iii) The rated errors for multipliers are not less than:

(A) Static: 0.025%;

(B) Total at 1 kHz: 0.25%;



(iv) The rated errors for fixed function generators (log and sine/cosine) are not less than:

Static: 0.1%;

(v) No more than 350 operational amplifiers; and

(vi) No more than four integrator time scales switchable during one program.

**Technical Notes:** 1. The percentage for sub-paragraph (c)(2)(ii)(A) above applies to the actual output voltage; all the other percentages apply to full scale, that is from maximum negative to maximum positive reference voltages.

2. Total errors at 1 kHz for sub-paragraphs (c)(2)(ii)(B) and (c)(2)(iii)(B) above are to be measured with those resistors incorporated in the inverter, summer or integrator which provide the least error.

3. Total error measurements include all errors of the unit resulting from, for example, tolerances of resistors and capacitors, tolerances of input and output impedances of amplifiers, the effects of loading, the effects of phase shift or the generating of functions.

(d) \* \* \*

**Advisory Note 3: Reserved.**

**Advisory Note 20 (for the People's Republic of China):** Licenses are likely to be approved for bulk shipments to satisfactory end-users in the People's Republic of China of personal computers and small business computer systems, controlled by paragraph (h) of this ECCN 1565A, that do not exceed any of the following parameters:

(a) "Total processing data rate"—136 million bits per second;

(b) "Virtual storage" capability—512 million bytes (4,096 million bits); or

(c) The other technical parameters of the system—the limits contained in Advisory Note 9(b) without taking into account Advisory Note 9(b)(4)(ii)(B).

**Notes:** 1. This Advisory Note 20 may not be used for graphic workstations exceeding the parameters of Advisory Note 9(a)(7).

2. Supermini "digital computers" with a "virtual storage" capability exceeding the level in paragraph (b) of this Advisory Note 20 will not be eligible for consideration under this Note. It is recognized, however, that other "digital computers" (e.g., main frames and microcomputers) may have a "virtual storage" capability exceeding this limit, and in such cases they may be considered under this Note.

23. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1567A is amended by revising Technical Note 2 that follows the *Special South Africa and Namibia Controls* paragraph, by adding definitions (in alphabetical order, as set forth below) to Note 8 that follows Advisory Note 7, by revising Advisory Note 10 (for the People's Republic of China), by revising Advisory Note 12 (for the People's Republic of China), by revising Advisory Note 14 (for the People's Republic of China), and by

revising Advisory Notes 15, 16, and 17 (for the People's Republic of China), as follows:

**1567A Stored program controlled communication switching equipment or systems, and specially designed components therefor for the use of these equipment or systems.**

*Special South Africa and Namibia Controls:* \* \* \*

**Technical Notes:**

1. \* \* \*

2. "Digital computers" or "affiliated equipment" when:

(a) "Embedded" in stored program controlled communication switching equipment or systems are to be regarded as specially designed components therefor;

(b) "Incorporated" in stored program controlled communication switching equipment or systems are covered by this ECCN 1567A provided that they are the standard models customarily supplied by Western manufacturers of the stored program controlled communication switching equipment or systems; or

(c) "Associated" with stored program controlled communication switching equipment or systems are covered by ECCN 1565A or ECCN 1572A.

**Advisory Note 7:** \* \* \*

**Note 8:** The following are definitions of terms used in this ECCN 1567A:

"affiliated equipment"—

Equipment, as follows: ◀

(a) Input/output (I/O) control units;

(b) Recording or reproducing equipment;

(c) Displays; or

(d) Other peripheral equipment.

"common channel signalling"—\* \* \*

"communication channel"—\* \* \*

"data device"—\* \* \*

"datagram"—

Is a self-contained, independent entity of data carrying sufficient information to be routed from the source to the destination data terminal equipment without reliance on earlier exchanges between these source and destination data terminal equipments and the transporting network.

"data (message) switching"—\* \* \*

"data signalling rate"—\* \* \*

"digital computer"—\* \* \*

"embedded" in equipment of systems—\* \* \*

"fast select"—\* \* \*

A facility applicable to virtual calls that allows a data terminal equipment to expand the possibility to transmit data in call set-up and clearing "packets" beyond the basic capabilities of a virtual call.

"local area network"—\* \* \*

"PABX"—See "private automatic branch exchange".

"packet"—

A group of binary digits including data and call control signals that is switched as a composite whole. The data, call control signals and possibly error control information are arranged in a specified format.

"Packet-mode operation"—

The transmission of data by means of addressed "packets" whereby a transmission channel is occupied for the duration of the

"packet" only. The channel is then available for use by "packets" being transferred between different data terminal equipments. In certain data communication networks the data may be formatted into a "packet" or divided and then formatted into a number of "packets" (either by the data terminal equipment or by equipment within the network) for transmission and multiplexing purposes.

"private automatic branch exchange (PABX)"—\* \* \*

\* \* \*

"trunk circuit"—\* \* \*

"trunk exchange"—See "transit exchange".

"wide area network"—\* \* \*

**Advisory Note 9 (for the People's Republic of China):** \* \* \*

**Advisory Note 10 (for the People's Republic of China):** Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of "stored-program-controlled telephone circuit switching" equipment or systems controlled by paragraph (b) provided that:

(a) The equipment or systems are designed for fixed civil use as "space-division digital exchanges" or "time-division digital exchanges" which fulfill the definition of "private automatic branch exchanges" ("PABXs");

(b) The equipment or systems:

(1) Are designed and used for fixed civil "stored program controlled telephone circuit switching" applications; and

(2) Will be operated in the importing country by a civil end-user who has furnished to the supplier a signed statement, certifying that the equipment or systems will be used for the specified end-use at a specified location only;

(c) *Reserved;*

(d) The equipment or systems do not contain "digital computers" or "related equipment" controlled by:

(1) ECCN 1565A(f);

(2) ECCN 1565A(h)(1)(i) (a) to (k) or (m); or

(3) ECCN 1565A(h)(1)(ii);

(e) The "PABXs" do not have any of the following features:

(1) Multi-level call pre-emption, including overriding or seizing of busy subscriber lines, "trunk circuits" or switches; Note: This does not preclude single level call pre-emption (e.g., executive override).

(2) "Common channel signalling";

(3) Dynamic adaptive routing;

(4) *Reserved;*

(5) *Reserved;*

(6) Digital synchronization circuitry that uses equipment controlled by ECCN 1529A(a)(2);

(7) *Reserved;* or

(8) Centralized network control having all of the following characteristics:

(i) Is based on a network management protocol; and

(ii) Does the following:

(a) Receives data from the nodes; and

(b) Processes these data in order to:

(1) Control traffic; and

(2) Directionalize paths;

(f) "Communication channels" or "terminal devices" used for administrative and control purposes:

(1) Are fully dedicated to these purposes; and



(2) Do not exceed a maximum "data signalling rate" of 19,200 bit per second;

(g) *Reserved*;

(h) *Reserved*;

(i) *Reserved*;

(j) The "software" supplied:

(1) Is limited to:

(i) The minimum "specially designed software" necessary for the use (i.e., installation, operation and maintenance) of the equipment or systems; and

(ii) Machine-executable form; and

(2) Does not include "software":

(i) Controlled by ECCNs 1527A, paragraph (a)(5) of Supplement No. 3 to Part 779 or Item 11 on the U.S. Department of State's Munitions List (Supplement No. 2 to Part 770); or

(ii) To permit user-modification of generic "software" or its associated documentation;

(k) *Reserved*;

(l) *Reserved*; and

(m) A license application to export any commodities covered by this Advisory Note includes a statement identifying:

(1) The equipment or system to be provided; and

(2) The intended application.

**Advisory Note 11 (for the People's Republic of China):** \* \* \*

**Advisory Note 12 (for the People's Republic of China):** Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of "stored program controlled circuit switching" equipment or systems, controlled by paragraph (b) of this ECCN 1567A, provided that:

(a) The equipment or systems are designed for fixed civil use as "stored program controlled telephone circuit switching" exchanges that fulfill the definitions of either "terminal exchange" or "transit exchange";

(b) *Reserved*;

(c) The equipment or systems:

(1) Are designed and used for fixed civil "stored program controlled telephone circuit switching" applications; and

(2) Will be operated in the importing country by a civil end-user who has furnished to the supplier a signed statement, certifying that the equipment or systems will be used for the specified end-use at a specified location only;

(d) *Reserved*;

(e) The equipment or systems cannot be adapted to mobile use or security use, as described in ECCN 1565A(f) (1) to (4), (g) or (h)(1)(ii) (a) and (b);

(f) *Reserved*;

(g) The equipment or systems do not have any of the following features:

(1) Multi-level call pre-emption, including overriding or seizing of busy subscriber lines, "trunk circuits" or switches;

Note: This limitation does not preclude single level call pre-emption (e.g., executive override).

(2) "Common channel signalling";

(3) Dynamic adaptive routing;

(4) *Reserved*;

(5) *Reserved*;

(6) Digital synchronization circuitry that uses equipment controlled by ECCN 1529A(a)(2);

(7) *Reserved*; or

(8) Centralized network control having all of the following characteristics:

(i) Is based on a network management protocol; and

(ii) Does all of the following:

(a) Receives data from the nodes; and

(b) Processes these data in order to:

(1) Control traffic; and

(2) Directionalize paths;

(h) "Communication channels" or "terminal devices" used for administrative and control purposes:

(1) Are fully dedicated to these purposes; and

(2) Do not exceed a maximum "data signalling rate" of 19,200 bit per second;

(i) *Reserved*;

(j) The "software" supplied:

(1) Is limited to: (i) The minimum "specially designed software" necessary for the use (i.e., installation, operation and maintenance) of the equipment or systems; and (ii) Machine-executable form; and

(2) Does not include "software": (i) Controlled by ECCN 1527A, paragraph (a)(5) of Supplement No. 3 to Part 779, or Item 11 on the U.S. Department of State's Munitions Control List (Supplement No. 2 to Part 770); or

(ii) To permit user-modification of generic "software" or its associated documentation;

(k) *Reserved*;

(l) *Reserved*; and

(m) A license application to export any commodities covered by this Advisory Note identifies: (1) The equipment or system to be provided; (2) The intended application; (3) The operating authority; and (4) The intended installation location of the equipment or system.

**Advisory Note 13: Reserved.**

**Advisory Note 14 (for the People's Republic of China):**

Licenses are likely to be approved for exports to satisfactory end-users in the People's Republic of China of equipment or "software" for "common channel signalling", contrary to the provisions in Advisory Notes 10 or 12 (for the People's Republic of China), provided that:

(a) The "common channel signalling" is restricted to "quasi-associated" or "associated mode of operation" according to CCITT Red Book, Volume X, fascicle X.1;

(b) No functions, other than those described in the following recommendations in the Red Book of CCITT: Q701 to Q709, Q721 to Q725, Q791 and Q795, are included;

Note.—Only functions described in paragraph 2 of Q795 are to be included. These Q795 functions may not provide centralized network control functions as defined in Advisory Note 10(e)(8) or Advisory Note 12(g)(8).

(c) No form of Integrated Services Digital Network (ISDN) is provided;

(d) Equipment or "software" is restricted to those necessary for the operation within a city or, for "PABXs", within a radius of 100 km;

(e) No means are provided which will allow "common channel signalling" via analog transmission links;

(f) All the applicable conditions enumerated in paragraphs (a) to (e) of this Advisory Note are accomplished by: (1)

Omission or physical removal of equipment or coding; (2) Over-writing with non-functioning statements; or (3) Reasonably non-reversible modifications.

**Advisory Note 15 (for the People's Republic of China):**

Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of repair facilities controlled by this ECCN 1567A for repair of stored program controlled communication switching equipment or systems, provided that:

(a) Any technical data to be transferred is strictly limited to "operation technical data" as described in § 779.4(b)—(Any technical data that does not meet the requirements of § 779.4(b) for shipment under General License GTDR must be the subject of a separate export license application);

(b) The repair facilities: (1) Are specially designed equipment for repair; (2) Are to be used to repair controlled equipment exported pursuant to an Advisory Note or equipment that is not controlled for export; (3) Are shipped in reasonable quantities necessary for the types and quantities of exported equipment being serviced; (4) Do not provide local production facilities; and (5) Do not provide for testing of individual electronic components.

(c) The repair does not upgrade the equipment or systems beyond the performance thresholds of Advisory Notes 10 or 12 (for the People's Republic of China);

(d) All the records of repair activity are kept by a representative of the Western supplier; and

(e) A license application to export any commodities covered by this Advisory Note includes a statement identifying: (1) The equipment to be provided; and (2) The users and their activities.

Note.—Nothing in this Advisory Note shall be construed as overriding controls in other ECCNs contained in the Commodity Control List.

**Advisory Note 16 (for the People's Republic of China):**

Licenses will receive favorable consideration for export to satisfactory end-users in the People's Republic of China of "data (message) switching" equipment or systems controlled by paragraph (a) of this ECCN 1567A, provided that:

(a) The equipment or systems are designed for fixed civil use and stored program controlled "packet-mode operation";

(b) The equipment or systems do not have any of the following features: (1) "Datagram" service; (2) "Fast select"; (3) Dynamic adaptive routing; (4) Precedence, priority override or multilevel call preemption; (5) Centralized network control having all of the following characteristics: (i) Is based on a network management protocol; and (ii) Does all the following: (a) Receives data from the nodes; and (b) Processes these data in order to: (1) Control traffic; and (2) Directionalize paths;

(c) The "software" supplied: (1) Is limited to: (i) The minimum "specially designed software" necessary for the use (i.e., installation, operation and maintenance) of



the equipment or systems; and (ii) Machine-executable form; and (2) Does not include "software": (i) Controlled by ECCN 1527A, paragraph (a)(5) of Supplement No. 3 to Part 779, or Item 11 on the U.S. Department of State's Munitions List (Supplement No. 2 to Part 770); or (ii) To permit user-modification of generic "software" or its associated documentation;

(d) If the equipment or systems are not designed for installation by the user without support from the supplier, then the "software" necessary for commissioning is: (1) Exported on a temporary basis only; and (2) Kept under the control of the supplier;

(e) Systems for "packet-mode operation" are limited to five nodes;

(f) No "internetwork gateways" are provided other than for messages originating from or terminating in Western countries;

Note: Connections of private networks to international destinations must be via public "internetwork gateways".

(g) Each node in a system is limited to 64 ports;

(h) Node throughput does not exceed 153,600 octets per second;

Note: One octet in, at any port, plus one octet out, also at any port, equals a throughput of one octet. One octet is defined as eight bits residing in the user data field.

(i) All the applicable conditions enumerated in paragraphs (a) to (e) of this Advisory Note 16 are accomplished by: (1) Omission or physical removal of equipment or coding; (2) Over-writing with non-functioning statements; or (3) Reasonably non-reversible modifications.

#### Advisory Note 17 (for the People's Republic of China):

I. Licenses will receive favorable consideration for export to satisfactory end-users in the People's Republic of China of technical data for development, production, or use of stored program controlled communication switching equipment or systems, and of instrumentation, test equipment, components or specially designed "software" therefor for modification, production or use of equipment or systems, provided that:

(a) The characteristics of the equipment or systems are limited to those which make them eligible for consideration under Advisory Notes 10 or 12 (for the People's Republic of China);

(b) Technical data for general purpose computers is not eligible for consideration under this Advisory Note 17 (see Part 779);

(c) Technical data for testing of large scale integrated (LSI) circuits or those with higher component densities is limited to go/no-go tests;

(d) Generic "software" is exported in machine executable form only;

(e) No technical data for the design or development of printed circuit boards or integrated circuits is supplied;

(f) Technical data and training for "software" are limited to the creation or maintenance of customer specific data bases and site parameters;

(g) Modification of the equipment or systems is not permitted if any aspect of the design would result in exceeding the performance thresholds or features of Advisory Notes 10 or 12 (for the People's

Republic of China);

(h) The contract includes explicit conditions to ensure that: (1) The technical data or equipment or systems are not reexported or exported, either directly or indirectly, to another proscribed destination without approval; (2) The supplier may appoint a representative in the People's Republic of China who could verify that the manufactured equipment was serving its intended use; (3) Any modification of the capabilities or functions of the equipment has been agreed to by both parties;

(i) The Western personnel have right of access to all the facilities directly involved in the modification and production of the equipment or systems.

Note.—Paragraphs (c) or (e) of this Advisory Note 17 do not preclude exports of technical data that would be possible according to the provisions of Part 779.

II. Favorable consideration may also be given for exports to satisfactory end-users in the People's Republic of China of the minimally required associated materials and components controlled by this ECCN 1567A or other ECCNs in the Commodity Control List designated by the code letter "A" and specially designed "software" for modification, production or testing of equipment or systems.

Note.—No export under this paragraph of Advisory Note 17 shall establish a precedent for export approval under other ECCNs in this Commodity Control List.

24. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1572A is amended by revising the two Notes following subparagraph (a)(i)(2); by revising subparagraph (d)(ii); by adding new subparagraphs (e), (f), (g), and (h); by revising Advisory Note 1; by removing Advisory Note 4; by redesignating Advisory Notes 5 and 6 as Advisory Notes 4 and 5; by redesignating Advisory Note 7 for the People's Republic of China as Advisory Note 6 for the People's Republic of China; and by redesignating Note 8 as Note 7, as follows:

*1572A Recording or reproducing equipment, "recording media", and specially designed components and accessories therefor.*

**List of Types of Recording, and/or Reproducing Equipment, "Recording Media" and Specially Designed Components and Accessories Therefor Controlled by ECCN 1572A**

(a) \* \* \*  
(i) \* \* \*  
(2) \* \* \*

Note.—This sub-paragraph (a)(i)(2) does not apply to magnetic heads mounted on servo-mechanisms that include piezoelectric transducers and have a gap width less than 0.75 micrometer (29.5 microinches).

Note: Gap width is the dimension of the gap parallel to the relative movement between tape and head.

(d) (ii) Magnetic tape having all of the following characteristics:

(A) Specially designed for television recording and reproduction or for instrumentation;

(B) Being a standard commercial product; and

(C) Having either of the following sets of characteristics:

(1) (i) A tape width not exceeding 50.8 mm (2 inches); (ii) Not designed for use in satellite applications; (iii) Been in use in quantity for at least two years; (iv) A magnetic coating material consisting of doped or undoped gamma-ferric oxide or chromium dioxide; (v) A rated intrinsic coercivity not exceeding 64 kA/m (804 oersted); and (vi) A tape length not exceeding 1,096 m (3,600 feet); or (2) (i) A tape width not exceeding 25.4 mm (1 inch); (ii) A magnetic coating material consisting of chromium dioxide; (iii) A base material consisting only of polyester; and (iv) A rated intrinsic coercivity not exceeding 60 kA/m (750 oersted).

(e) Technical data for the development, production or use of recording or reproducing equipment described in this ECCN 1572A, except:

(i) Technical data that is unique to equipment not controlled by subparagraphs (a)(i)(1), (a)(i)(2), or (a)(ii) or paragraphs (b) or (c) of this ECCN 1572A;

Note: This sub-paragraph (e)(i) does not apply to technical data for the design or production of:

(a) Cylindrical structures used to record or reproduce video signals in a helical scan system recorder or reproducer, and

(b) Recorded alignment tapes used in the production of recording or reproducing equipment.

(ii) The minimum technical data necessary for the use of equipment that may be exported under the provisions of this ECCN 1572A.

(f) Technical data for continuous coating of magnetic tape described in this ECCN 1572A, as follows:

(i) Technical data for the formulation of coating material;

(ii) Technical data for the application of coating material to the backing;

(g) Technical data for the manufacture of flexible disk "recording media" described in this ECCN 1572A, as follows:

(i) Technical data for the formulation of coating material;

(ii) Technical data for the application of coating material to the flexible backing;

(h) Technical data for the development or production of rigid disk "recording media" described in this ECCN 1572A.

Advisory Note 1: Licenses are likely to be approved for export to satisfactory end-users in Country Groups QWY of the following:

(a) Analog magnetic tape recorders:



(1) Controlled by sub-paragraph (a)(iii)(H); or

(2) Equipped with tape-derived (off-tape) servo speed control and with a time displacement (base) error, measured in accordance with applicable IRIG or EIA documents, of no less than  $\pm 1.0$  microsecond;

(b) Systems having all of the following characteristics:

(1) Designed for use in civil aircraft or helicopters to record flight data for safety or maintenance purposes;

(2) Been in normal civil use for more than one year;

(3) No more than 100 input channels; and  
(4) A sum of the individual channel recording bandwidth not exceeding 500 Hz;

(c) Incremental recorders or reproducers having all of the following characteristics:

(1) Designed for discontinuous sampling or collection of data in an incremental manner;

(2) The maximum tape speed, at the maximum stepping rate, does not exceed 50.8 mm (2 inches) per second;

(3) Not ruggedized for military use;

(4) Not rated for continuous operation in ambient temperatures from below 233 K ( $-40^{\circ}\text{C}$ ) to above 328 K ( $+55^{\circ}\text{C}$ );

(5) Not especially designed for underwater use; and

(6) Not including recording or reproducing heads designed for use in equipment with characteristics superior to those defined in paragraph (a)(1) or (a)(2) of this Advisory Note;

(d) Digital magnetic recorders having both of the following characteristics:

(1) Specially designed for seismic or geophysical applications; and

(2) Operating in the frequency range from 5 Hz to 800 Hz.

25. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials), ECCN 1702A is amended by adding a Technical Note 5 immediately following Technical Note 4 and by adding an Advisory Note for the People's Republic of China to follow Technical Note 5, as follows:

**1702A Hydraulic fluids that contain as the principal ingredient(s) petroleum (mineral) oils, synthetic hydrocarbon oils, non-fluorinated silicones or fluorocarbons as described in this entry.**

**Technical Note 5:** The viscosity index is a term used to express the ratio of the viscosity values measured at 311 K ( $37.8^{\circ}\text{C}$ ,  $100^{\circ}\text{F}$ ) and 372 K ( $98.9^{\circ}\text{C}$ ,  $210^{\circ}\text{F}$ ) in accordance with ASTM D 2270.

**Advisory Note for the People's Republic of China:** Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of reasonable quantities of hydraulic fluids controlled by this ECCN 1702A, except hydraulic fluids containing:

(a) Super-dewaxed refined mineral oil;

(b) Non-fluorinated silicones (silica-hydrocarbons); or

(c) Synthetic hydrocarbons (poly-alpha hydrocarbons).

**Note.**— \* \* \*

26. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials), ECCN 1734A is amended by adding an Advisory Note for the People's Republic of China at the end of the entry, as follows:

**1734A Low density, rigid, carbon-bonded, fibrous or non-fibrous carbon thermal insulating materials as described in this entry.**

**Advisory Note for the People's Republic of China:** Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of furnace insulation in the form of flat sheets that are less than 15.24 cm (6 inches) thick, provided that it is installed under the supervision of a responsible Western representative.

27. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials), ECCN 1754A is amended by removing the Advisory Note at the end of the entry and by adding a Technical Note at the end of the entry, as follows:

**1754A Fluorocarbon compounds, materials and manufactures as described in this entry.**

**Technical Note:** This ECCN 1754A does not control the export of up to 19 liters (5 U.S. gallons) of polychlorotrifluoroethylene-based lubricating oils. Nothing in this Technical Note shall be construed as permitting the export of technical data.

28. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials), ECCN 1755A is amended by revising paragraph (b) of the entry and by removing the (Advisory) Note at the end of the entry, as follows:

**1755A Silicone fluids and greases as described in this entry.**

**List of Silicone Fluids and Greases Controlled by ECCN 1755A**

Silicone fluids and greases, as follows:

(a) \* \* \*

(b) Silicone and fluorinated silicone lubricating greases capable of operating at temperatures of 478 K ( $205^{\circ}\text{C}$ ,  $400^{\circ}\text{F}$ ) or higher and having a drop point (method of test being ASTM D 2265) of 493 K ( $220^{\circ}\text{C}$ ,  $428^{\circ}\text{F}$ ) or higher.

(For hydraulic fluids using these elements, see also ECCN 1702A.)

29. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity

Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials), ECCN 1757A is amended by revising the Advisory Note for the People's Republic of China, as follows:

**1757A Compounds and materials as described in this entry.**

**Advisory Note for the People's Republic of China:** Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of:

(a) Silicon, compounds and materials, as follows:

(1) Monocrystalline silicon, N-type, crystal orientation 1-1-1 with a resistivity not exceeding 100 ohm.cm;

(2) Monocrystalline silicon, P-type, crystal orientation 1-1-1 with a resistivity not exceeding 5 ohm.cm;

(3) Polycrystalline silicon;

(4) Compounds used in the synthesis of polycrystalline silicon;

(b) Positive resists with a spectral response not optimized for use below 365 nm and not controlled by sub-paragraphs (k)(3), (k)(4), or (k)(5) of this ECCN 1757A.

30. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials), ECCN 1763A is amended by adding a Note 4 immediately following Note 3, by removing the Advisory Note at the end of the entry, and by adding an Advisory Note for the People's Republic of China at the end of the entry, as follows:

**1763A Fibrous and filamentary materials that may be used in organic "matrix", metallic "matrix" or carbon "matrix" composite structures or laminates, and such composite structures and laminates.**

**Technical Notes:**

Notes: 1. \* \* \*

2. \* \* \*

3. \* \* \*

4. Nothing in this Note shall be construed as permitting the export of technical data. Paragraphs (a) and (b) of this ECCN 1763A do not control carbon fibers having both of the following characteristics:

(a) "Specific modulus" less than  $11.43 \times 10^6$  m ( $4.5 \times 10^8$ ); and

(b) "Specific tensile strength" less than  $10.16 \times 10^4$  m ( $4 \times 10^6$  in).

**Advisory Note for the People's Republic of China:** Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of discontinuous ceramic fibers controlled by paragraph (b) of this ECCN 1763A, having a melting or sublimation point lower than 2,043 K ( $1,770^{\circ}\text{C}$ ) ( $3,218^{\circ}\text{F}$ ) in an inert environment.



Dated: February 17, 1989.

Michael E. Zacharia,  
Assistant Secretary for Export  
Administration.

[FR Doc. 89-4153 Filed 2-27-89; 8:45 am]

BILLING CODE 3510-DT-M

## FEDERAL TRADE COMMISSION

### 16 CFR Part 13

[Docket No. C-3245]

#### Montgomery Ward & Co., Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

**AGENCY:** Federal Trade Commission.

**ACTION:** Consent order.

**SUMMARY:** In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, a Chicago, IL, retailer from misrepresenting service contract coverage and products' need for maintenance, adjustment, or servicing. The order also prohibits respondent from making any claims about the durability of any product for which it sells service contracts, unless it has competent and reliable evidence that substantiates its claims.

**DATE:** Complaint and Order issued December 21, 1988.<sup>1</sup>

**FOR FURTHER INFORMATION CONTACT:** Lawrence M. Hodapp, FTC/H-238, Washington, DC 20580, (202) 326-3105.

**SUPPLEMENTARY INFORMATION:** On Wednesday, August 17, 1988, there was published in the *Federal Register*, 53 FR 31019, a proposed consent agreement with analysis in the Matter of Montgomery Ward & Co., Inc., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form or order.

A comment was filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Advertising Falsely Or Misleadingly: § 13.10 Advertising falsely or

misleadingly; § 13.170 Qualities or properties of product or service; § 13.170-30 Durability or permanence. Subpart—Corrective Actions And/Or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533-45 Maintain records; § 13.533-45(a) Advertising substantiation; § 13.533-50 Maintain means of communication. Subpart—Misrepresenting Oneself And Goods: § 13.1590-20 Federal Trade Commission Act; § 13.1710 Qualities or properties; § 13.1740 Scientific or other relevant facts.

#### List of Subjects in 16 CFR Part 13

Service contracts, Trade practices.

**Authority:** Sec. 8, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.

Donald S. Clark,  
Secretary.

[FR Doc. 89-4560 Filed 2-27-89; 8:45 am]

BILLING CODE 6750-01-M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### 18 CFR Parts 154, 157, 260, 284, 385, and 388

[Docket No. RM87-17-000]

#### Natural Gas Data Collection System; Availability of Print Software for FERC Form No. 15

Issued February 21, 1989.

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Notice of availability of PC print software for FERC Form No. 15.

**SUMMARY:** Software to print FERC Form No. 15 data required to be filed on an electronic medium in accordance with Order No. 493-A (53 FR 30,027 (Aug. 10, 1988)) is now available on diskette. The diskette contains a compiled program file which can be run on an IBM-compatible PC with at least 512K RAM and DOS 3.0 (or later version).

**DATE:** The software is available as of February 21, 1989.

**ADDRESS:** Submit requests for copies of the software to: Public Reference Branch, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Room 1000, Washington, DC 20426, (202) 357-8118.

**FOR FURTHER INFORMATION CONTACT:** Craig Hill, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North

Capitol Street NE., Room 7010, Washington, DC 20426, (202) 357-9039.

**SUPPLEMENTARY INFORMATION:** The software to produce a hard copy printout of FERC Form No. 15, when filed in accordance with the record formats adopted by Order No. 493-A is now available. The record formats, previously used for optional magnetic tape filings, now apply to all respondents. Form No. 15 filings may be submitted on either magnetic tape, tape cartridge or diskette. The diskette available today contains a compiled program file which can be run on an IBM-compatible PC with at least 512K RAM and DOS 3.0 (or later version). The ANSI 1974 Standard COBOL source code, an "INFO" file on the use of the software, a test data file and a sample output file are also included on the diskette. The source code for mainframe systems was released on January 31, 1989.

The software is available from the Commission's Public Reference Branch through its photocopy contractor, La Dorn Systems Corporation, located in Room 1000, 825 North Capitol Street NE., Washington, DC 20426. The software is available on a single 5.25" (1.2MB) double-sided, high density diskette.

Persons requesting this software, in person or by written request, should specify: "Docket Number RM87-17-000, February 21, 1989", Software Diskette E-1 (Form 15 Print Software)". The software is available without charge. However, the Commission's copy contractor has a copy fee of \$5.00 per diskette.

Lois D. Cashell,  
Secretary.

[FR Doc. 89-4555 Filed 2-27-89; 8:45 am]

BILLING CODE 6717-01-M

#### 18 CFR Part 284

[Docket Nos. RM88-14-002 and RM88-15-001; Order No. 509-A]

#### Interpretation of, and Regulations Under, Section 5 of the Outer Continental Shelf Lands Act Governing Transportation of Natural Gas by Interstate Natural Gas Pipelines on or Across Outer Continental Shelf; Order on Rehearing

Issued: February 21, 1989.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Final rule; order on rehearing.

**SUMMARY:** The Federal Energy Regulatory Commission (Commission) is issuing an order on rehearing of Order

<sup>1</sup> Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, Sixth Street and Pennsylvania Avenue NW., Washington, DC 20580.



No. 509.<sup>1</sup> Order No. 509 was a final rule implementing section 5 of the Outer Continental Shelf Lands Act (OCSLA).<sup>2</sup> The Commission received 23 requests for clarification or rehearing of Order No. 509. In response to these requests, the Commission is: (1) Extending the time period within which OCS pipelines must conduct open seasons for firm and interruptible transportation capacity;<sup>3</sup> (2) amending the definition of an OCS pipeline;<sup>4</sup> (3) adding a provision addressing the priority status of existing requests for firm service during and after the open season for firm transportation;<sup>5</sup> and (4) revising the rate provisions concerning the use of existing transportation rates by OCS pipelines.<sup>6</sup> Otherwise, the requests for rehearing are denied.

**EFFECTIVE DATE:** The final rule in Order No. 509 and the modifications made in this order becomes effective on February 17, 1989.

#### FOR FURTHER LEGAL INFORMATION

**CONTACT:** Roger E. Smith, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 (202) 357-8530.

**SUPPLEMENTARY INFORMATION:** In addition to publishing the full text of this document in the *Federal Register*, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in Room 1000 at the Commission's Headquarters, 825 North Capitol Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 357-8997. To access CIPS, set your communications software to use 300, 1200 or 2400 baud, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this order on rehearing will be available on CIPS for 30 days from the date of issuance. The

complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in Room 1000, 825 North Capitol Street, NE., Washington, DC 20426.

#### Order on Rehearing

Before Commissioners: Martha O. Hesse, Chairman; Charles G. Stalon, Charles A. Trabandt, Elizabeth Anne Moler and Jerry J. Langdon.

On December 9, 1988, the Federal Energy Regulatory Commission (Commission) issued Order No. 509,<sup>1</sup> which implemented section 5 of the Outer Continental Shelf Lands Act (OCSLA),<sup>2</sup> and revised the Commission's interpretative rule on section 5 of the OCSLA.<sup>3</sup>

The Commission received 21 requests for rehearing of Order No. 509 and one letter accepting a blanket certificate.<sup>4</sup> NRM Operating Company, L.P. and EnerMark, Inc. (NRM) filed a motion for clarification. Point Arguello Natural Gas Line Company filed an untimely rehearing request but subsequently requested leave to withdraw it. Texas Sea Rim Pipeline, Inc. filed a letter purporting to accept a blanket certificate. Stingray Pipeline Company filed a letter indicating an error in Appendix B of Order No. 509 regarding the shoreward terminus of Stingray's OCS facilities. The Commission grants Point Arguello's request for leave to withdraw its request for rehearing. The Commission has considered all of the other filings (including NRM's request, Stingray's letter and Texas Sea Rim's letter) in issuing this order.

<sup>1</sup> 53 FR 50,925 (Dec. 19, 1988), III FERC Stats. & Regs. ¶ 30,842 (Dec. 9, 1988).

<sup>2</sup> 43 U.S.C. 1334 (1982).

<sup>3</sup> Interpretation of section 5 of the Outer Continental Shelf Lands Act, Order No. 491, 53 FR 14,922 (Apr. 26, 1988), 43 FERC ¶ 61,006 (Apr. 1, 1988).

<sup>4</sup> Timely requests for rehearing were filed on January 9, 1989, by Amoco Production Company, Kerr-McGee Corporation and Marathon Oil Company; ANR Pipeline Company; Arco Oil and Gas Marathon Oil Company; ANR Pipeline Company; Arco Oil and Gas Company; Associated Gas Distributors; Black Marlin Pipeline Company; Columbia Gas Transmission Corporation and Columbia Gulf Transmission Company; Enron Interstate Pipelines; FMI Hydrocarbons, Inc.; High Island Offshore System and U-T Offshore System; Indicated Producers; Pacific Interstate Offshore Company; Pacific Offshore Pipeline Company; Pennzoil Exploration & Production Company; Phillips Petroleum Company; Sea Robin Pipeline Company; Tarpon Gas Marketing Ltd. and Vesta Energy Company; Tennessee Gas Pipeline Company; Texas Eastern Transmission Corporation; and Transcontinental Gas Pipeline Corporation.

#### A. Need for the Rule

Texas Eastern Transmission Corporation (Texas Eastern) argues that the Commission failed to articulate a reasonable basis for adopting Order No. 509. Noting that "many of the interstate pipelines to whom the rule is addressed are already providing open and nondiscriminatory access under Order Nos. 436 and 500,"<sup>5</sup> Texas Eastern argues that the rule is unnecessary. The Commission disagrees. The fact that "many" interstate pipelines already provide for open and nondiscriminatory access under Part 284 of the Commission's regulations does not resolve potential access problems on those OCS pipelines that do not provide such transportation service. For the reasons elaborated in Order No. 509, the Commission has determined that the OCSLA mandates that all pipelines that operate on the OCS do so on an open access basis.

Texas Eastern contends that the complaints the Commission received regarding access to transportation on the OCS were motivated by the Commission's policy against brokering of existing transportation rights on the OCS and that these complaints do not demonstrate a need to issue mandatory blanket transportation certificates to all OCS pipelines.<sup>6</sup> The Commission disagrees. As discussed in Order No. 509, the Commission has a duty to carry out its statutory responsibilities under the OCSLA. Capacity brokering is an alternative that the Commission is currently exploring.<sup>7</sup> An equally valid means of ensuring the most efficient use of capacity is to establish an open access program on the OCS by issuing blanket transportation certificates to all OCS pipelines.

The Part 284 blanket transportation certificates require all OCS pipelines to offer interruptible transportation, and to offer it on a nondiscriminatory basis. Therefore, instead of allowing the holder of the existing firm capacity rights to sell off, or "broker," its unused capacity, Order No. 509 compels all OCS pipelines to offer nondiscriminatory interruptible transportation to potential new shippers.

<sup>5</sup> Request of Texas Eastern at 3.

<sup>6</sup> *Id.* at 4.

<sup>7</sup> Brokering of Interstate Natural Gas Capacity, Docket No. RM88-13-000, 53 FR 15061 (Apr. 27, 1988), IV FERC Stats. & Regs. ¶ 32,460 (Apr. 4, 1988). The Commission's capacity brokering NOPR has revealed several complicated issues that are involved in establishing any capacity brokering program on a generic basis or generically in a rulemaking proceeding. The Commission has decided, on an experimental basis, to accept the capacity brokering proposal of United Gas Pipe Line Company, 46 FERC ¶ 61,060 (Jan. 24, 1989), Order Amending Blanket Certificate.

<sup>1</sup> "Interpretation of, and Regulations under, section 5 of the Outer Continental Shelf Lands Act Governing Transportation of Natural Gas by Interstate Natural Gas Pipelines on the Outer Continental Shelf," Order No. 509, 53 FR 50,925 (Dec. 19, 1988), III FERC Stats. & Regs. ¶ 30,842 (Dec. 9, 1988).

<sup>2</sup> 43 U.S.C. 1334 (1982). In issuing Order No. 509, the Commission also revised its interpretative rule on section 5 of the OCSLA, Order No. 491, 53 FR 14,922 (Apr. 26, 1988), 43 FERC ¶ 61,006 (Apr. 1, 1988).

<sup>3</sup> See, 18 CFR 284.304(a), (b) (1988).

<sup>4</sup> See, new 18 CFR 284.302(b) (1988).

<sup>5</sup> See, new 18 CFR 204.304(a)(4)(iv) (1988).

<sup>6</sup> See, new 18 CFR 284.305(d)(2) (1988).



The rule promotes full utilization of the capacity of OCS pipelines without disrupting existing firm transportation arrangements.

### B. Pro Rata Allocation of Capacity

Although nothing in Order No. 509 mandates pro rata allocation of capacity, several commenters requested rehearing based on the Commission's statement that it would consider pro rata allocation of capacity as an available remedy in potential future case-specific inquiries under section 5 of the OCSLA.<sup>8</sup> Associated Gas Distributors (AGD) asks the Commission to either clarify that it did not intend to find that it has the authority to require pro rata allocation of capacity or grant rehearing on the issue.<sup>9</sup> High Island Offshore System and U-T Offshore System (HIOS) seek assurance of the right to challenge any future attempt by the Commission, either on a case-specific or a generic basis, to impose prorationing on the OCS.<sup>10</sup> Texas Eastern contends that the Commission lacks legal authority under section 5 of the OCSLA to impose a generic pro rata allocation scheme on OCS pipelines.

Because the Commission did not adopt any requirement of pro rata allocation, Order No. 509 explicitly deferred consideration of issues of the Commission's legal authority to do so.<sup>11</sup> Thus, the Commission agrees with HIOS and AGD that these legal issues were not presented or resolved in Order No. 509, are not ripe on rehearing, and may be addressed on a clean slate in any future proceeding in which they may arise.<sup>12</sup>

Tennessee Gas Pipeline Company (Tennessee) interprets Order No. 509 as permitting OCS pipelines to include pro rata transportation schemes in their tariffs.<sup>13</sup> Tennessee declares that affording this discretion to OCS pipelines when the Commission itself has decided not to exercise it is inappropriate and invites service

disruptions and abuse.<sup>14</sup> The short answer is that such tariff provisions are beyond the scope of this proceeding. If any OCS pipeline chooses to file a tariff containing pro rata provisions, such provisions can and will be considered on a case-specific basis in response to the filing, and any party that opposes those provisions will have ample opportunity to protest or intervene to express its views.

The Indicated Producers assert that Order No. 509 allows OCS pipelines to choose an allocation method that will deny access to non-owner shippers, and request that the Commission require OCS pipelines to transport gas for all shippers who request transportation service and, if necessary, to prorate capacity among shippers.<sup>15</sup> The Indicated Producers also believe that the provisions for voluntary reallocation of firm transportation capacity in Order No. 509 allow owner-shippers on the OCS (through a simple unwillingness to voluntarily relinquish capacity) to bar access to firm transportation for non-owner shippers.<sup>16</sup> These arguments, in essence, are arguments in favor of requiring pro rata allocation. For the same reasons it chose not to adopt a generic pro rata allocation scheme, as discussed in Order No. 509, the Commission denies the Indicated Producers' requests. Requiring OCS pipelines to provide blanket transportation service will promote use of OCS transportation capacity by assuring that potential shippers will have nondiscriminatory access to unused firm capacity, without disrupting existing transportation arrangements.

### C. Scope of Order No. 509

Tarpon Gas Marketing, Ltd. and Vesta Energy Company (Tarpon) allege that the Commission ignored issues raised in Tarpon's comments on the NOPR.<sup>17</sup> Tarpon alleges, specifically, that Order No. 509 contains no discussion of Tarpon's suggestions: (1) To require OCS pipelines to apply for blanket certificates to govern their onshore operations; and (2) that the Commission adopt similar requirements for pipelines subject to the Mineral Leasing Act.<sup>18</sup> Both suggestions are more ambitious than what the Commission proposed in the NOPR, both are concerned with the onshore operations of interstate natural gas pipelines, and, for that reason, both fall beyond the scope of this rulemaking

proceeding.<sup>19</sup> This rulemaking proceeding and Order No. 509 only concern the operations of interstate natural gas pipelines on the OCS.

ANR Pipeline Company (ANR), HIOS and Tennessee ask for rehearing based on the Commission's decision to implement section 5 of the OCSLA only with respect to jurisdictional interstate natural gas pipelines that hold a certificate under section 7 of the Natural Gas Act (NGA)<sup>20</sup> authorizing the construction and operation of facilities on the OCS. ANR contends that the Commission's decision not to apply Order No. 509 to gathering or producer-owned facilities on the OCS is unreasonable and discriminatory.<sup>21</sup> Tennessee contends that the Commission should require nondiscriminatory transportation by all OCS transporters if it does so for NGA jurisdictional pipelines.<sup>22</sup> HIOS submits that there is no just basis for declining to establish requirements for facilities owned and operated by producers that are comparable to the mandatory blanket certificate, open season, and related requirements imposed on OCS pipelines.<sup>23</sup>

It is within the Commission's discretion to decide how to implement section 5 of the OCSLA, and there is a reasonable basis for taking a case specific approach with respect to nonjurisdictional OCS pipelines. The most rational starting point for promulgating regulations to implement section 5 of the OCSLA is with interstate pipelines that are clearly within the Commission's jurisdiction under the NGA. Moreover, the Commission already has an established open access program that can, with few modifications, be applied to such pipelines. The Commission recognizes, however, that the open access mandate of the OCSLA applies to all pipeline operations on the OCS, and will consider appropriate measures for remedying discriminatory access to other OCS facilities on a case by case basis.

Enron Interstate Pipelines (Enron) challenges the Commission's statement in Order No. 509 that "If the Commission receives complaints regarding gathering facilities it will, on a case-specific basis, use its ancillary authority, its authority under sections 4 and 5 of the NGA, and

<sup>8</sup> See Order No. 509, 53 FR at 50,927, III FERC Stats. & Regs. at 31,273.

<sup>9</sup> See AGD's rehearing request at 5.

<sup>10</sup> See HIOS's rehearing request at 5.

<sup>11</sup> See Order No. 509, 53 FR at p. 50,927, III FERC Stats. & Regs. at 31,279.

<sup>12</sup> The statement in Order No. 509 regarding pro rata allocation on a case-specific basis reflects the Commission's belief (as well as the belief of several other commenters on the NOPR) that under section 5(e) of the OCSLA the Commission has the authority to determine, in consultation with the Secretary of Energy, the proportionate amounts to be transported, after a full hearing with case-specific findings and after taking into account, *inter alia*, conservation and waste.

<sup>13</sup> See Tennessee's rehearing request at 3, citing to Order No. 509, 53 FR at 50,927, III FERC Stats. & Regs. at 31,276-277.

<sup>14</sup> Tennessee's request for rehearing at 3.

<sup>15</sup> See the Indicated Producers' request for rehearing at 7-8.

<sup>16</sup> *Id.* at 9.

<sup>17</sup> See Tarpon's rehearing request at 1.

<sup>18</sup> 30 U.S.C. 181, *et seq.* (1982).

<sup>19</sup> The Commission cannot mandate blanket transportation service onshore simply because pipelines also have operations on the OCS.

<sup>20</sup> 15 U.S.C. 717f (1982).

<sup>21</sup> See ANR's rehearing request at 12.

<sup>22</sup> See Tennessee's rehearing request at 19-21.

<sup>23</sup> See HIOS's rehearing request at 6.



its authority under section 5 of the OCSLA, as appropriate under the circumstances presented" (citations omitted). Enron contends that the Commission lacks jurisdiction under sections 4 and 5 of the NGA to take such action.<sup>24</sup> The short answer is that the Commission's section 4 and 5 authority with respect to gathering facilities on the OCS is beyond the scope of this proceeding, and is not ripe for consideration on rehearing of Order No. 509. Enron may challenge an assertion of such authority if and when the Commission exercises it, in any proceeding in which the issue arises.

#### D. Authority to Issue Blanket Certificates

Texas Eastern, HIOS, ANR and Sea Robin argue that the Commission lacks legal authority under the NGA to issue mandatory blanket transportation certificates to OCS pipelines.<sup>25</sup> Texas Eastern, for example, contends that the OCSLA does not empower the Commission to issue any type of transportation authorization. The argument of Texas Eastern and others runs as follows: (1) Section 7(c) of the NGA requires that before a natural gas company may engage in the transportation of natural gas in interstate commerce, there must be in force a certificate of public convenience and necessity issued by the Commission; (2) section 7(e) of the NGA provides that the applicant must demonstrate that it is willing and able to undertake the proposed transportation and that such transportation is required by the present or future public convenience and necessity; and, therefore, (3) if the applicant is unwilling to accept the certificate, the willing and able standard has not been met and the certificate cannot be issued.

The Commission disagrees with these commenters; their argument ignores the presence of section 5 of the OCSLA and its mandate that OCS pipelines must provide open and nondiscriminatory access to both owner and nonowner shippers. Order No. 509 only applies to those interstate natural gas pipelines that hold a certificate under section 7 of the NGA authorizing the construction and operation of facilities on the OCS. The willingness of OCS pipelines to provide transportation service on or across the OCS was established when they accepted their existing certificates and commenced service thereunder. The

blanket certificates issued by Order No. 509 simply impose conditions of service that are mandated by section 5 of the OCSLA. Congress established a condition of open and nondiscriminatory access for the transportation of oil and natural gas on or across the OCS. OCS pipelines are not compelled to operate on the OCS, but if they choose to do so they must be willing to provide open and nondiscriminatory access to transportation services. Compliance with section 5 of the OCSLA is required of pipelines operating on the OCS; it is not a matter as to which they have discretion.

#### E. The Rate Determinations

Several commenters argue that the rate provisions of Order No. 509 are unlawful and unclear.<sup>26</sup> Columbia states that in order for the Commission to properly exercise its authority under sections 5 of the NGA it must: (1) Find the existing rates of a pipeline to be unjust and unreasonable; (2) find the rates that it seeks to impose on a pipeline are just and reasonable; and (3) support each finding by substantial evidence. Columbia also states that section 5 of the NGA places the burden of proof on the Commission with respect to these findings. Columbia and others argue that the Commission did not properly find that the existing rates for transactions under individual section 7 certificates are unjust and unreasonable. Moreover, because Order No. 509 provides an opportunity for pipelines to refile their current rates for individually certificated transportation if the pipeline can demonstrate that such rates are not unjust, unreasonable, or unduly discriminatory,<sup>27</sup> Columbia and Tennessee argue that the Commission has improperly shifted the burden of proof to the pipelines to prove that their existing rates are just and reasonable.<sup>28</sup> Finally, Tennessee and Columbia both dispute the validity of the Commission's reasons for finding that an OCS pipeline's current rates are unjust and unreasonable if they do not conform to the requirements of §§ 284.7, 284.8(d)

and 284.9(d) of the Commission's regulations.

Columbia argues that the fact that blanket certificates may be necessary to satisfy the open access requirements of the OCSLA has nothing to do with rate determinations. Columbia also argues that the rate design and nondiscrimination requirements in §§ 284.7, 284.8(d) and 284.9(d) simply apply, as the Commission recognized, in the context of transportation performed under the blanket certificates and not in the context of individually certificated transportation. Tennessee alleges that nothing in Order No. 509 changes the nature of an OCS pipeline's services in terms of the physical flow and the facilities utilized—the fundamental characteristics that determine rate design.

Sea Robin argues that the Commission has failed to justify its generic treatment of the existing rates of OCS pipelines. Sea Robin notes the Commission relied on the notice and comment procedures of its rulemaking to satisfy the NGA section 5 hearing requirement.<sup>29</sup> Sea Robin agrees that the Commission can rely on notice and comment rulemaking procedures as a means to satisfy section 5 of the NGA, but distinguishes the Commission's reliance on *Wisconsin Gas* by noting that the Commission was attempting, in that instance, to redress the anticompetitive effects of a generic practice (i.e., the use of minimum commodity bills). Sea Robin asserts that the approach of *Wisconsin Gas* is not appropriate to Order No. 509, where the rates found to be unlawful in the rulemaking were not the product of a generic practice but were the product of circumstances peculiar to each OCS pipeline and where the rates were approved by the Commission on a case by case basis. Sea Robin argues that the notice and comment procedures which overrule such rates are not sufficient when the levels of such rates have not been shown to be a problem of a generalized nature. Sea Robin therefore contends that the Commission must grant rehearing of Order No. 509 to provide that existing rates will be reviewed in individual proceedings under section 5 of the NGA.

As elaborated in Order No. 509, the Commission based its finding on: (1) Its determination that Part 284, Subpart G blanket certificates are required to satisfy the open access requirement of the OCSLA; (2) its determination in

<sup>24</sup> See Enron's request for rehearing at 5.

<sup>25</sup> See ANR's rehearing request at 10; HIOS's rehearing request at 7; Sea Robin's rehearing request at 15; and Texas Eastern's rehearing request at 5.

<sup>26</sup> See ANR's rehearing request at 2; Columbia's rehearing request at 2; Sea Robin's rehearing request at 4-13; Tennessee's rehearing request at 11-19; and Indicated Producers' rehearing request at 25.

<sup>27</sup> See 18 CFR 284.305(d)(2) (1988).

<sup>28</sup> Tennessee also contends that Order No. 509 does not provide procedures for parties (other than the OCS pipeline) to support the retention of existing rates if the OCS pipeline elects not to refile and justify them. The short answer is that interested persons will have ample opportunity to protest and intervene, and express their views, with respect to the OCS pipelines' filings regardless of what the OCS pipelines choose to file, whether it be new rates or (as described below) a statement explaining their existing rates.

<sup>29</sup> Order No. 509, 53 FR at 50,927, III FERC Stats. & Regs. at 31,278 (citing *Wisconsin Gas Co. v. FERC*, 770 F.2d 1144 (DC Cir. 1985), cert. denied, 106 S.Ct. 1969 (1986)).



Order Nos. 436 and 500 that rates inconsistent with §§ 284.7, 284.8(d) and 284.9(d) are unjust and unreasonable in the context of transportation performed under blanket certificates;<sup>30</sup> and (3) its determination that it would be unduly discriminatory to subject existing shippers on OCS pipelines to a rate different than the rate charged to new shippers on the same pipeline.<sup>31</sup> In other words, through the rulemaking process the Commission undertook the burden of establishing pursuant to NGA section 5 that the current rates are unduly discriminatory.

As we understand the requests for rehearing, no one is challenging the requirement to file Part 284 rates for use in performing transportation under the blanket certificate. The sole challenge is to the requirement that Part 284 rates be utilized in lieu of existing rates with respect to transportation performed pursuant to existing individual certificates.

For the reasons discussed in Order No. 509, we continue to believe that the existing rates are unjust, unreasonable and unduly discriminatory, because they can result in situations wherein two shippers would be paying different rates for the same service. We believe the discrimination is particularly glaring if part, but not all, of an existing shipper's firm capacity is voluntarily reallocated—the new shipper would be paying Part 284 rates while the old shipper would be paying the existing rates. Nevertheless, based on reconsideration of this issue, we have concluded that the most appropriate procedure would be to permit the continued use of the existing rates for transportation under existing certificates until such time as OCS pipelines have had an opportunity to present their views on a case specific basis. Accordingly, we have revised the rule.

OCS pipelines who wish to utilize their current rates after April 1, 1989 for transportation performed pursuant to existing certificates must file, no later than March 1, 1989, a statement to that effect which explains why the pipeline believes that continued use of those rates for that purpose would not be unjust, unreasonable or discriminatory in light of the activities authorized by the blanket certificate issued in Order No. 509, and in light of the Part 284 rates on file to implement the blanket certificate. Interested parties may

comment on these filings. Based on the pipeline's statement of explanation and the comments thereon, the Commission will determine the appropriate action to be taken.

Thus, the NOPR, Order No. 509, and this order have commenced the NGA section 5 process by stating why the Commission believes the current rates are unduly discriminatory. OCS pipelines now have an opportunity to respond. If they respond, the issue will be considered on a case specific basis, with the Commission bearing the burden of demonstrating that the current rates are unjust, unreasonable or discriminatory. The current rates will remain in effect until such time as they may be superseded by rates that the Commission permits or orders to become effective. In other words, OCS pipelines may file superseding rates pursuant to section 4 of the NGA, or the Commission may impose Part 284 rates as superseding rates pursuant to section 5 of the NGA. In the latter event, such rates could be imposed for that purpose only after the Commission has considered the case specific explanation filed by the OCS pipeline, and pursuant to a procedure whereby the Commission has the burden of proof under section 5 of the NGA.

To implement this change, § 284.305 (a) and (d)(2) have been revised as follows:

#### Section 284.305 Transportation rates.

(a) Except to the extent authorized by paragraph (d)(2), the transportation rate for transportation of gas on the OCS by an OCS pipeline must be the rate in a transportation rate schedule on file with the Commission that conforms to § 284.7, and to either § 284.8(d) for firm service or to § 284.9(d) for interruptible service.

(d)(2) An OCS pipeline may continue to use its current rates to perform transportation pursuant to certificates other than Part 284 blanket transportation certificates. An OCS pipeline that elects to use its current rates for that transportation after April 1, 1989, must file, no later than March 1, 1989, a notification to that effect plus a statement explaining why it believes that continued use of those rates would not be unjust, unreasonable, or unduly discriminatory in light of activities it performs under the blanket certificate issued by § 284.303(a) and the rates filed to implement that certificate.

Section 284.305(f) has been deleted as surplusage; in light of the changes made in subsections (a) and (d), set forth above, the current rates will remain in effect until such time as they may be superseded.

Sea Robin also argues that even if the Commission retains the rate findings of Order No. 509, those generic findings

cannot be applied to Sea Robin. Sea Robin notes that in *Sea Robin Pipeline Co. v. FERC*,<sup>32</sup> the court considered whether the rate charged by Sea Robin under its Rate Schedule X-5 for the transportation of OCS gas was just and reasonable. The court determined that the Commission failed to demonstrate that the rate was unjust and unreasonable and remanded the issue to the Commission. The remanded issue is now set for hearing before an administrative law judge in Docket No. RP88-181-000.<sup>33</sup> Sea Robin claims that because the lawfulness of Sea Robin's existing X-5 rate is the subject of a Commission hearing which will consider the specific facts underlying Sea Robin's rates, its transportation rates should not be subject to Order No. 509.

Order No. 509 was issued two years after the court decision referenced by Sea Robin, and is premised on considerations that were not in the record before the court. If Sea Robin wishes to continue its use of Rate Schedule X-5, it should file a notification and explanation pursuant to § 284.305(d)(2), as revised herein. If and when the Commission receives such a filing, it will consider the propriety of consolidating it with the proceeding in Docket No. RP88-181.

Columbia and Tennessee ask the Commission to clarify that Order No. 509 allows OCS pipelines to selectively discount offshore transportation rates.<sup>34</sup> Columbia indicates that since OCS pipelines must file rates in compliance with § 284.7 (which provides for maximum and minimum rates), they should have the same ability to discount offshore transportation rates as do open access transporters onshore. Columbia is concerned that the Commission's statement in Order No. 509 that "it is unduly discriminatory to subject existing shippers on OCS pipelines to a different transportation rate than the rate charged to new shippers on the same pipeline" <sup>35</sup> might be read to eliminate the rate flexibility provisions of § 284.7(d). The Commission's intent in Order No. 509 was to mirror the onshore open access as closely as possible. The Commission, therefore, confirms that Order No. 509 does not preclude OCS pipelines from selectively discounting Part 284 offshore transportation rates.

<sup>30</sup> 795 F.2d 182 (DC) Cir. 1986).

<sup>31</sup> Sections 284.8 and 284.9 also contain the requirements of nondiscriminatory access. See 18 CFR 284.8(b), 284.9(b) (1988).

<sup>32</sup> Order No. 509, 53 FR at 50,930, III FERC Stats. & Regs. at 31,278.

<sup>33</sup> Sea Robin Pipeline Co., 43 FERC ¶ 61,569 (1988), Order on reh'g, 44 FERC ¶ 61,356 (1988).

<sup>34</sup> See Columbia's rehearing request at 8 and Tennessee's rehearing request at 18.

<sup>35</sup> Order No. 509, 53 FR at 50,930, III FERC Stats. & Regs. at 31,278.



Tennessee requests that the Commission authorize selective discounting of its rates even if the OCS transportation service is rendered under an individual section 7 certificate. The request is denied, consistent with well established Commission policy. Discounting is permitted in blanket transportation service because the discount is merely one element in a comprehensive regulatory scheme under Part 284 that includes numerous safeguards to ensure that the transportation is performed in a nondiscriminatory manner. Transportation performed under individual certificates lacks these safeguards.<sup>36</sup>

Tennessee asks the Commission to clarify that OCS pipelines have no refund exposure due to the continued use of existing rates. In light of our revision of the rule, discussed above, Tennessee's request for clarification is moot; we have deleted the requirement to "refile" the current rates.<sup>37</sup>

#### F. Definition of an OCS Pipeline and Appendix B

The Commission listed the OCS pipelines to whom blanket certificates are issued by Order No. 509 in Appendix B to the order. Several commenters noted a number of inadvertent discrepancies between the definition of an OCS pipeline and the list of OCS pipelines in Appendix B. These commenters request that the Commission either clarify or revise its definition of an OCS pipeline, or revise Appendix B to add or delete particular pipelines, so that the list will conform to the definition.<sup>38</sup>

Section 284.302(b) of the regulations, as adopted in Order No. 509, defined an OCS pipeline as

An interstate natural gas pipeline that holds a certificate under section 7 of the NGA

authorizing the construction and operation of facilities on the OCS, and includes all of the OCS pipeline's facilities that fall within the scope of the Commission's jurisdiction under section 7 of the NGA to the full extent that such facilities are used or necessary to transport natural gas from the OCS to the first point of interconnection on the shoreward side of the OCS where it delivers natural gas to either:

- (1) A natural gas conditioning or processing facility, or
- (2) Another pipeline, or
- (3) A distributor or end user of natural gas.<sup>39</sup>

Black Marlin suggests that the scope of the blanket certificate could change from time to time whenever a particular OCS pipeline constructs a new first point of interconnection on the shoreward side of the OCS. Black Marlin requests that the Commission clarify Order No. 509 to indicate that Appendix B of the rule was provided for illustrative purposes and was not meant to establish or otherwise identify the first point of interconnection on the shoreward side of the OCS for OCS pipelines.

Texas Eastern and Transco state that there are a number of interstate pipeline facilities on the OCS through which transportation services are performed that were not included in Appendix B. Transco states that it owns substantial pipelines in the OCS that have been certificated under section 7 of the NGA, and is a partner in other, jointly owned OCS facilities, that are not included in Appendix B, and that this is the case with other pipelines as well. Transco suggests that blanket certificates are issued to these facilities even though they are not listed in Appendix B, and requests clarification.

Appendix B was intended as a listing of all OCS pipelines and their shoreward termini as of the date of issuance of Order No. 509. We recognize that OCS pipelines' shoreward termini may change subsequent to that date. In such event, the definition in § 284.302(b), as amended below, will govern. Appendix B will not be published in the regulations, and does not purport to be a permanent roster of OCS pipelines. It has, however, served an extremely useful role in the rulemaking process by focussing attention on the formulation and application of the definition in § 284.302(b). In light of the comments received, we have made a modest refinement in the definition. We will also address herein the application of the definition, as revised, to the facts posed by several of the commenters in their requests for rehearing.

<sup>39</sup> 18 CFR 284.302(b) (1988).

Transco is correct that the definition of an OCS pipeline in § 284.302(b) is controlling. Every pipeline operating on the OCS that falls within that definition is issued a Part 284, Subpart G blanket transportation certificate and must comply with Order No. 509. Offshore pipelines that meet the definition of an OCS pipeline in § 284.302(b) (as amended herein), but who were not listed in Appendix B of Order No. 509, fall within the scope of the regulations adopted in Order No. 509.<sup>40</sup>

Black Marlin notes that its shoreward terminus is not correctly stated in Appendix B.<sup>41</sup> Appendix B identifies the shoreward terminus of Black Marlin as the "onshore terminus at the Union Carbide plant, Texas City, Texas." Black Marlin states that the correct terminus is its existing interconnection with the Houston Pipe Line Company located at Black Marlin's onshore separation facility, i.e., a point upstream of the Union Carbide Texas City Plant. We adopt Black Marlin's correction.

Stingray Pipeline Company points out that its shoreward terminus is incorrectly identified in Appendix B as "West Cameron 148 Offshore Louisiana." <sup>42</sup> Stingray states that the correct terminus is its compressor station in Holly Beach, Louisiana, where it delivers gas to Natural Gas Pipeline Company of America. The Commission adopts that correction as well.

Arco asks the Commission to modify the definition. First, Arco explains that an OCS pipeline often delivers gas to a gas processing plant that has only a single downstream exit. Arco suggests that the point of interconnection be moved downstream to the point at which that pipeline interconnects with another pipeline. Arco indicates that the point of interconnection downstream of the plant may be a few hundred feet or a few miles. In other cases, there may be more than one pipeline taking delivery of residue gas at the plant tailgate; Arco suggests that in those instances the plant inlet may be a reasonable point for the OCS pipeline to terminate.

Secondly, Arco suggests that the downstream interconnection would be more meaningful if the onshore

<sup>36</sup> See e.g., Consolidated Gas Transmission Corporation, 38 FERC ¶ 61,273 at 61,670 (1986), *aff'd on rehearing*, 39 FERC ¶ 61,112 at 61,422-23 (1987), *aff'd sub nom.* Columbia Gas Transmission Corp. v. FERC, 848 F.2d 250 (DC Cir. 1988). Tennessee also requests that the filing of a cost and revenue study under new § 284.305(c) not be required for OCS pipelines that file selectively discounted rates for individually certificated services. Inasmuch as selectively discounted rates are not permitted for such service, Tennessee's request is moot.

<sup>37</sup> In any event, with respect to newly filed rates, refund exposure would attach from the date that such rates become effective, but only to the extent that such rates are increased.

<sup>38</sup> See Texas Eastern's rehearing request at 9; Black Marlin's rehearing request at 2; Transco's rehearing request at 1; FMI's rehearing request at 2; Amoco's rehearing request at 13; Arco's rehearing request at 5; Indicated Producers' rehearing request at 15; NRM's request for clarification or waiver; Texas Sea Rim's letter of January 12, 1989; and Stingray Pipeline Company's letter of January 31, 1989.

<sup>40</sup> See also Texas Eastern's rehearing request at 10, where it states that it has "interstate pipeline facilities on OCS lands that were constructed primarily to connect system supplies but through which Texas Eastern also provides open access transportation services to the extent that capacity is available." Such facilities, if they fall within the definition of an OCS pipeline in § 284.302(b), are subject to Order No. 509 despite the fact that they were not listed in Appendix B.

<sup>41</sup> See Black Marlin's rehearing request at 3, n.1.

<sup>42</sup> See January 31, 1989 letter to the Secretary from Stingray.



interconnection is with another open access pipeline; otherwise, the shipper of the gas may be unable to secure transportation of the gas to its intended destination, thus defeating the purpose of the rule. Finally, Arco states that if the pipeline physically terminates at an end-use facility, then the inlet to that facility would be a reasonable point for the OCS pipeline to terminate. But if the end-use facility is taking delivery of only part of the gas the OCS pipeline is transporting, and isn't (or is physically incapable of) taking delivery of all of the gas, Arco believes the inlet point of the end-use facility has "no meaning" as the termination point for the OCS pipeline because the remaining gas has no place to go except to continue in the pipeline to another point of consumption or to an interconnection with another pipeline.

Arco's solution to the three problems it perceives is to modify the definition of an OCS pipeline to extend to the "first point of interconnection on the shoreward side of the OCS with another pipeline operating under the Commission's open access transportation program or which has transportation capacity available."<sup>43</sup>

Similar to Arco, the Indicated Producers request that the definition be changed to include all transmission facilities downstream from any point on the OCS to the first onshore point where alternate transportation is genuinely available. The Indicated Producers contend that this point should be where the OCS shippers have access to Part 284 open access transportation facilities that have a total capacity equal to or greater than the capacity of the OCS pipeline (after taking into account the design capacity of all Part 284 open access transportation facilities having receipt points on the OCS pipeline).<sup>44</sup>

The Indicated Producers assert that the Commission was persuaded to change the definition in the final rule by comments stating that the proposed definition could result in an unwarranted extension of pro rata transportation into the onshore facilities of an OCS pipeline. Since the pro rata requirement has been removed, the Indicated Producers believe the objection is no longer relevant. The Indicated producers maintain that the Commission's goal to "expand open access to the OCS" will only take on meaning if there is a true integration of transportation accessibility from the OCS to onshore open access facilities.<sup>45</sup>

The Indicated Producers also allege that the current definition of an OCS pipeline may provide an unintended windfall to certain pipelines or industrial plants and will provide opportunities to

OCS pipelines (or their affiliated pipelines) to manipulate their systems to the detriment of those who benefit from open access.

Arco and the Indicated Producers have raised important considerations in determining where an OCS pipeline should terminate. However, their proposed definitions—to the extent that they would define the interconnection on the shoreward side of the OCS with either another Part 284 open access pipeline or another pipeline that has capacity available—are overly broad and exceed the Commission's legal authority under the OCSLA.

As discussed below, the legal predicate for the Commission's requirement that all OCS pipelines provide open access transportation pursuant to Part 284 blanket transportation certificates is the mandate of the OCSLA. That mandate speaks in terms of transportation of OCS gas "on or across" the OCS.<sup>46</sup>

Under certain circumstances (e.g., an essentially onshore interstate pipeline whose seaward terminus extends on to the OCS, and during periods of peak operation of that pipeline in a winter heating season), the definition proposed by Arco and the Indicated Producers could extend the requirements of Order No. 509 many hundreds of miles inland, deep into the interior of the continental United States. Indeed, the scope of the rule's coverage might expand and contract quite dramatically (like mercury rising and falling in a thermometer) as the availability of onshore capacity loosens and tightens; alternatively, the scope of the rule's coverage would have to extend to some predetermined "worst case scenario" boundary line beyond which capacity would never be unavailable.

We believe that any such extension of the scope of coverage of the rule would significantly exceed our underlying statutory authority under the OCSLA. Based on the differences in statutory authority, the Commission has determined that the offshore open access program (Order No. 509) is mandatory and that the onshore open access program (Order Nos. 436 and 500) is voluntary. Consequently, the Commission does not believe it can, or should, mandate onshore open access carriage under the guise of the OCSLA's offshore mandate. Thus, the Commission has chosen the first point of interconnection off the OCS with some other entity that receives gas from the OCS pipeline as the terminus of the OCS open access program.

To the extent that the interconnection of an open access OCS pipeline with a non-open access onshore pipeline poses problems of capacity transition from one pipeline to the other, those problems are

not unique to the OCS; they are the same problems that arise at the interconnection of two onshore pipelines when one is open access and the other is not. We read the OCSLA to mandate transportation of OCS gas to the onshore pipeline system, not *through* the onshore pipeline system. We do not read the OCSLA as mandating transportation access for OCS gas *through* onshore facilities in excess of, and in preference to, the transportation access that gas produced onshore has to that onshore system.

The second problem posed by Arco, as described above—the possibility that the first shoreward interconnection (particularly if it is an end-user) may be physically incapable of receiving the full capacity of the OCS pipeline—does cause us some concern. We do not, however, perceive any viable method of formulating the definition to address that problem without falling into the above described legal quagmire of trying to define the shoreward terminus of an OCS pipeline in terms of the capacity of the various shoreward entities with which it may from time to time interconnect, as that capacity itself changes seasonally or over time.

We agree with Arco that if the first onshore interconnection of an OCS pipeline is with a gas conditioning or processing plant, and if that plant has only a single tailgate exit by which the gas can leave the plant, the purpose of Order No. 509 would be totally frustrated if the plant blocked passage of the gas through its tailgate facilities to the downstream interconnection. On reflection, however, it occurs to us that this potential problem is extremely hypothetical in that the plant itself would be frustrating its own operations and economic purpose if it did anything with that gas other than passing it through its sole tailgate facilities to its sole interconnection with some entity capable of receiving it. Therefore, on the record currently before us, we perceive no purpose to be served by asserting jurisdiction over such plants to the extent that they may be nonjurisdictional, or by requiring such plants to file tariffs and conduct open seasons, etc. If such a plant ceases operation, it would, of course, cease being the terminus of the OCS pipeline. In the extremely unlikely event that a single exit plant at the terminus of an OCS pipeline remains in operation, but in such a manner as to discriminatorily fail to redeliver its customers' gas, we will consider an appropriate remedy on a case by case basis.

FMI Hydrocarbons, Inc. (FMI) asks that the Commission revise the definition of an OCS pipeline to include gas that is transported from an onshore location seaward on to the OCS for consumption on the OCS. FMI, a wholly-

<sup>43</sup> See Arco's request for rehearing at 7.

<sup>44</sup> See Indicated Producers' request for rehearing at 17.

<sup>45</sup> *Id.* at 18.

<sup>46</sup> 43 U.S.C. 1334(f)(1) (1982).



owned subsidiary of Freeport McMoran, Inc., arranges for supplies of natural gas to be used to operate sulphur mines on the OCS. In connection with the operation of these sulphur mines, natural gas is transported by Freeport Interstate Pipeline Company (Freeport Interstate) seaward into the Gulf of Mexico and across the OCS. FMI also indicates that it may in the future seek to use offshore facilities to transport OCS gas to OCS sulphur mines, i.e., transportation entirely on the OCS.

The Commission agrees with and grants FMI's request to amend the definition of an OCS pipeline. Section 5(f)(1)(A) of the OCSLA is concerned with the "transportation by pipeline on or across the Outer Continental Shelf of oil or gas." <sup>47</sup> The Commission interprets the words "on or across" the OCS to include the seaward movement of gas from either an onshore location or an offshore location to any point on the OCS. Consequently, the Commission modifies the definition of an OCS pipeline in § 284.302(b) of its regulations as follows:

"OCS pipeline" means an interstate natural gas pipeline that holds a certificate under section 7 of the NGA authorizing the construction and operation of facilities on the OCS, and includes all of the OCS pipeline's facilities that fall within the scope of the Commission's jurisdiction under section 7 of the NGA to the full extent that such facilities are used or necessary to transport natural gas on or across the OCS between:

- (1) Any locations on the OCS (if the pipeline does not have an interconnection off the OCS), or
- (2) The OCS and the first point of interconnection on the shoreward side of the OCS where the pipeline delivers or receives natural gas to or from either:
  - (i) A natural gas conditioning or processing facility, or
  - (ii) Another pipeline, or
  - (iii) A distributor or end user of natural gas.<sup>48</sup>

Texas Sea Rim Pipeline, Inc. was listed by the Commission in Appendix B to Order No. 509 as one of the OCS pipelines issued blanket certificates by Order No. 509. On January 12, 1989, Texas Sea Rim sent the Commission a letter stating that, although Order No. 509 did not provide for acceptance or rejection of the certificates, Texas Sea Rim "accepts the blanket certificate." However, Texas Sea Rim's letter goes on to explain that its facilities are located entirely in state waters off the coast of Texas and do not cross the

Federal OCS. Thus, Texas Sea Rim falls outside the definition of an OCS pipeline in § 284.302(b). If Texas Sea Rim is not an OCS pipeline, it is not subject to, or bound by, Order No. 509. As discussed above, the definition is controlling; Appendix B was not. Therefore, the Commission finds that the issuance of a blanket certificate to Texas Sea Rim in Appendix B of Order No. 509 was void *ab initio*. Of course, Texas Sea Rim is still a certificated interstate pipeline, can avail itself of Part 284, and has applied for a blanket certificate; <sup>49</sup> this order is without prejudice to that application.

NRM Operating Company, L.P. and EnerMark, Inc. (NRM) ask the Commission to confirm that it is not presently subject to Order No. 509 and that it therefore need not comply with §§ 284.304-305 by March 1, 1989. In the alternative, NRM requests a temporary waiver of §§ 284.304-305. On December 22, 1988, in Docket No. CP88-428-000, the Commission issued a declaratory order and a temporary certificate in connection with certain OCS facilities owned and operated by NRM and others.<sup>50</sup> The Commission ruled that NRM's facility was subject to the jurisdiction of the Commission under the NGA as a facility used to transport natural gas in interstate commerce. NRM asserts that its delivery line is a gathering facility exempt from the Commission's NGA jurisdiction and has sought rehearing of the December 22, 1988 order. NRM's request for clarification or, alternatively, waiver of Order No. 509 is based on the fact that the Commission could reverse its jurisdictional determination in that order. NRM seeks clarification only that, at the present time, it is not subject to the various notice and filing requirements in §§ 284.304-305. Alternatively, NRM requests waiver of the regulations, pending final action by the Commission on the merits of the December 22, 1988 order. NRM's request for waiver and clarification that it is not subject to Order No. 509 is being considered in Docket No. CP88-428, in which an order on rehearing is being issued contemporaneously.

#### G. Open Season for Firm Transportation

Enron seeks clarification of several aspects of the requirement for OCS pipelines to hold an open season for firm transportation. First, Enron asks whether an open season must be conducted for firm transportation if no firm transportation capacity is available.

The OCS pipeline must conduct the open season to the extent of polling all of its existing firm shippers to ascertain whether any of them want to relinquish any or all of their firm capacity.<sup>51</sup> If in response to that process no firm shipper indicates a desire to relinquish capacity, and if the OCS pipeline itself does not have any firm capacity available for transportation services, then there will be no firm capacity to reallocate in the open season and the open season process is at an end; there is no need to invite potential shippers to request firm capacity that doesn't exist.

Next, Enron asks the Commission to clarify that existing requests for firm service on OCS pipelines that already have a Part 284 blanket transportation certificate have priority over new requests made during and after the open season.<sup>52</sup> Enron states that some of its OCS pipelines have all their firm capacity fully allocated and that they have received valid requests for additional firm service which they cannot fulfill. Enron states that Order No. 509 does not address the priority status of these existing requests during and after the open season.

Normally, the existing previously made requests for firm capacity will have the same priority during the open season as any other request made during the open season's window period of 10 to 30 days; that is the essence of an open season—everyone has an equal opportunity to request capacity. If the requests exceed availability, the OCS pipeline must allocate capacity on a pro rata basis, taking into account the capacity available at the particular receipt and delivery points specified by both the firm shippers relinquishing capacity and the shippers requesting firm capacity.<sup>53</sup> Thereafter, requests for firm capacity will be treated pursuant to the pipeline's tariffs.<sup>54</sup>

However, we recognize that some OCS pipelines already hold Part 284 blanket transportation certificates, and have tariffs on file that conform to the requirements of Part 284. If such OCS pipelines have compiled a list of potential shippers who want firm capacity, and if such a list was compiled in a nondiscriminatory manner pursuant to the conditions of an order issuing a Part 284 certificate or pursuant to the provisions of a tariff filed to implement Part 284 requirements, the pipeline should accord priority to those potential shippers at the open season. In other

<sup>47</sup> 43 U.S.C. 1334(f)(1) (1982).

<sup>48</sup> FMI expressed concern that Freeport Interstate was listed in Appendix B and wanted the blanket certificate, but did not fit the definition in § 284.302(b). As revised, the definition now includes Freeport Interstate.

<sup>49</sup> Docket No. CP88-454-000.

<sup>50</sup> NRM Operating Company, L.P., et al., 45 FERC ¶ 61,494 (1988).

<sup>51</sup> See 18 CFR 284.304(a) (1988).

<sup>52</sup> See Enron's rehearing request at 8.

<sup>53</sup> See 18 CFR 284.304(a)(4) (1988).

<sup>54</sup> See 18 CFR 284.305(e) (1988).



words, we do not wish to disrupt the orderly operation of a nondiscriminatory allocation mechanism that an open access OCS pipeline has already implemented pursuant to Part 284. Accordingly, we are adding a new paragraph (iv) to § 284.304(a)(4):

(iv) If an OCS pipeline already has a list of potential shippers who want firm capacity, and if that list was compiled in a nondiscriminatory manner pursuant to the conditions of an order issuing a Part 284 blanket certificate or pursuant to the provisions of a tariff filed to implement Part 284 requirements, it shall accord priority to those potential firm shippers at the open season.

Third, Enron seeks rehearing or clarification that after the open season an existing firm shipper cannot circumvent a pipeline's waiting list for firm capacity by assignment of the released capacity to a third party. Enron asserts that Order No. 509 does not address the situation after an open season where an OCS pipeline (1) has all of its capacity fully allocated, (2) has remaining unfulfilled requests for firm service, and (3) has an existing shipper who desires to relinquish service. Enron argues that it would be inequitable to permit the existing shipper who wants to relinquish capacity to circumvent the process by assigning capacity to a third party. Enron suggests that the existing shipper first should be required to relinquish capacity to those parties who are first in line for service. Enron suggests that only when there are no existing requests or not enough requests to account for the total capacity to be released should an existing shipper be permitted to reassign its capacity to a party of its choosing.

The Commission agrees with Enron that an existing shipper should not be able to circumvent an OCS pipeline's priority queue or waiting list by assignment of released capacity to a third party, as long as such a priority queue or waiting list has been established by the pipeline through nondiscriminatory processes consistent with the requirements of Part 284. Order No. 509 contemplates that a potential firm shipper may take the initiative to find an existing firm shipper who wishes to relinquish capacity. However, the reallocation of that capacity must be made by the pipeline itself, and cannot be made by the shippers; a direct shipper-to-shipper transfer of capacity would constitute unauthorized capacity brokering.<sup>55</sup> Moreover, the reallocation

must be consistent with the pipeline's tariff provisions implementing § 284.305(e), which requires OCS pipelines to set forth in their tariffs the mechanism they will use to reallocate firm transportation capacity under § 284.304(c). Thus, Enron has the ability to provide itself with the clarification it seeks.

Finally, Enron states that if an OCS pipeline has firm uncommitted capacity, the pipeline should be able to allocate that uncommitted capacity to a shipper requesting such service prior to relinquishment and allocation of committed capacity. The Commission agrees with Enron and believes that this procedure is already established in § 284.304 (a)(4)(ii) and (c)(2).

#### H. Open Season for Interruptible Transportation

Texas Eastern and Tennessee accuse the Commission of allowing interruptible capacity to be allocated, rather than scheduled, on the basis of price.<sup>56</sup> Consistent with the Commission's intent to mirror the onshore open access program, it stated that after the open season has been conducted an OCS pipeline may allocate interruptible capacity using any nondiscriminatory means that is acceptable for onshore blanket certificate transportation. In making that allocation, the Commission required OCS pipelines to give priority to currently authorized interruptible transportation so as to avoid disrupting on-going certificated service. This priority is contingent upon the rates that the existing shippers pay being no lower than the rates paid or to be paid by other interruptible shippers.

Tennessee and Texas Eastern claim that Order No. 509 allows capacity to be allocated on the basis of price. Tennessee asserts that Order No. 509 confuses capacity allocation with the scheduling of service and that this is inconsistent with the existing Commission policy on open access service. Tennessee declares that the Commission has uniformly required open access pipelines to allocate interruptible capacity on a first-income, first-served basis, with priority accorded to shippers who request service first. Tennessee then explains that once a shipper establishes his place in the priority queue on a first-come, first-served basis, it

Retains that priority for the term of his contract. However, within this first come, first served system of allocating capacity, the Commission has allowed pipelines to

*schedule* transportation based on price, recognizing that the Commission's regulations permit pipelines to discount their transportation rates to any level between stated maximum and minimum rates. Thus, for example, if Shipper A has priority over Shipper B under the first come, first served rule, Shipper B could nevertheless "bump" Shipper A if Shipper A were unwilling to pay the price offered by Shipper B—i.e., Shipper B's gas would be scheduled ahead of Shipper A's. However, Shipper A could regain his priority and have his gas scheduled ahead of Shipper B's by agreeing to match or beat Shipper B's price.

The new rules appear to require an existing interruptible shipper (Shipper A in the above example) to make an *up front* commitment to match the highest rate offered by any other shipper to retain his priority of service.

This is inconsistent with the Commission's current practice—which allows price-based bumping for scheduling purposes but allows the high-priority shipper to retain his slot in the queue—and would effectively require the existing shipper to lock himself into paying the maximum rate at all times. This could result in the dedication of most OCS capacity to large shippers with the greatest financial resources and substantially curtail transaction-specific competition for interruptible capacity. (citations omitted)<sup>57</sup>

Texas Eastern states similar concerns and argues that the Commission has failed to articulate a valid reason for adopting a different rule with respect to OCS pipelines.

Tennessee and Texas Eastern are misreading the rule. It operates the same way offshore as it operates onshore. Using Tennessee's example, Shipper A has priority if it matches Shipper B's price.<sup>58</sup>

#### I. Voluntary Reallocation of Firm Capacity

ANR, Transco, AGD, and Pennzoil seek clarification or rehearing on the voluntary reallocation of firm capacity provisions in § 284.304(c).<sup>59</sup> ANR urges the Commission to clarify that the replacement shipper must agree to assume the obligation of the transportation agreement of the original shipper, including the remaining term of the agreement. ANR argues that if this clarification isn't made, an unwarranted form of transportation contract demand reduction will occur through the reallocation of firm capacity to new shippers at significantly shorter terms

<sup>55</sup> Tennessee's request for rehearing at 9-10.

<sup>56</sup> Last there be any doubt, we stress that the "bump" procedure pertains only with respect to interruptible transportation; a firm shipper cannot lose its firm capacity unless it voluntarily relinquishes it.

<sup>57</sup> See ANR's request for rehearing at 14; Transco's request for rehearing at 2; AGD's request for rehearing at 3; and Pennzoil's request for rehearing at 2; see also 18 CFR 284.304(c) (1988).

<sup>58</sup> Cf. United Gas Pipeline Company, 46 FERC ¶ 61,090 (Jan. 24, 1989), Order Amending Blanket Certificate.

<sup>59</sup> See Texas Eastern's rehearing request at 11; and Tennessee's rehearing request at 8.



than the terms applicable to the existing shippers.

Pennzoil also seeks clarification regarding the term of service for relinquished capacity. However, in contrast to ANR, Pennzoil believes that the replacement shipper should be able to seek a term for firm transportation capacity that is shorter than the contract term of the shipper relinquishing the capacity. Pennzoil postulates an example where an existing shipper wants to relinquish 50 percent of its firm transportation capacity for the remaining period of its contract with an OCS pipeline, e.g., ten years. If the potential replacement shipper wants the capacity for only one year, Pennzoil interprets Order No. 509 as requiring the OCS pipeline to relinquish 50 percent of its capacity to the replacement shipper for one year. For the remaining term of the contract, i.e., nine years, the capacity would remain committed to the existing shipper. Pennzoil bases its interpretation on the assertion that the pipeline should not be given the discretion to impose a term on the transportation agreement that the new shipper seeks because the pipeline could use this discretion to discriminate against a potential shipper.

The Commission grants ANR's request for clarification and denies Pennzoil's. The Commission's intent in Order No. 509 was to have the voluntary reallocation structured in such a way that the OCS pipeline was indifferent to the "substitution" of the two shippers.<sup>60</sup> Consequently, the replacement shipper must be willing to assume all of the obligations of the original shipper. In response to Pennzoil, we reiterate and stress what we said in Order No. 509. The reallocation of firm capacity is total and permanent. The relinquishing shipper does not retain any residual rights to it. The relinquishing shipper gives up the capacity for its full term, and the new firm shipper accepts that capacity for its full term (unless the OCS pipeline itself voluntarily chooses to permit a shorter term and itself retains or reallocates the remainder). A request for firm capacity for less than the full term of that capacity is not a valid request, and need not be honored. The capacity reallocation provisions under the rule are, in that respect, quite different and distinct from "capacity brokering."

#### J. Abandonment

Transco seeks clarification of whether the abandonment authority in § 284.304(c)(3) pertains to the entire

preexisting transportation agreement or only to that portion of the arrangement which occurs offshore and up to the first point of interconnection as defined in § 284.302(b). Transco believes that the relinquishment, abandonment and reallocation procedures should apply to the preexisting transportation arrangement. Transco asserts that if that is not the case, the abandonment authority would be meaningless because (1) most transportation arrangements provide for the delivery of gas past the first point of interconnection onshore, and (2) separate abandonment applications will be required for that portion of the arrangement beyond the first point of interconnection off the OCS. In support of its request, Transco contends that the Commission has the authority to extend the automatic abandonment provisions of Order No. 509 to the onshore portions of transportation arrangements under section 7(b) of the NGA, and that the NGA does not distinguish between onshore and offshore facilities.

While Transco raises valid considerations, the Commission declines to adopt Transco's suggestion at this time. First, as noted in several different contexts in this order, the Commission is reluctant to have any part of Order No. 509 or the OCSLA govern the transportation of natural gas in interstate commerce onshore. Second, not all OCS pipelines are in Transco's position; some OCS pipelines that have onshore facilities are not open access pipelines under Part 284; it would be particularly inappropriate to grant abandonment authority that extends to the onshore operation of non-open access pipelines. Third, most OCS pipelines have offshore or close to shore termination points such that the abandonment authority in § 284.304(c)(3) is adequate to promote voluntary reallocation of firm capacity. The Commission agrees with Transco that separate abandonment applications may be necessary in certain cases to complete the voluntary reallocation of firm capacity; the Commission will endeavor to process such applications expeditiously.

AGD argues that the Commission's grant of blanket abandonment authorization for previously certificated firm service is legally invalid because the Commission has failed to make the requisite finding under section 7(b) of the NGA that the abandonment is consistent with the public convenience and necessity. AGD asserts that section 7(b) "clearly requires that abandonment be premised upon a 'finding by the Commission,' after due hearing." AGD

argues that there can be no such finding on the record before the Commission and that the question of whether the abandonment of transportation services would serve the present or future public convenience and necessity is an "extraordinarily fact-specific question" that merits careful scrutiny.<sup>61</sup> AGD argues that there is an utter absence of record support from which the Commission could make such a determination now.

As discussed in Order No. 509, the hearing requirement in the NGA can, under appropriate circumstances, be satisfied through the notice and comment procedures of a rulemaking.<sup>62</sup> Both the NOPR and Order No. 509 discussed the importance of making the most efficient use of the capacity of OCS pipelines. Both the NOPR and Order No. 509 stressed the importance of making unwanted, unneeded and unused capacity available to shippers who need it, want it, and will use it. Based on these considerations, elaborated in the NOPR, the comments received in response to the NOPR, and Order No. 509, the Commission finds, pursuant to section 7(b) of the NGA, that the abandonment of firm transportation service that a shipper does not want is consistent with the public convenience and necessity. We make this finding on a generic basis, because we perceive no potential factual circumstances that could be demonstrated at a case specific evidentiary hearing that could justify denial of abandonment of firm transportation service under circumstances in which the shipper entitled to the service and the pipeline providing the service both want the service to be abandoned.

#### K. CD Conversion Requirements

Columbia requests clarification of the § 284.10 contract demand conversion rights on a pipeline which holds Part 284 blanket certificates that cover both onshore and offshore facilities.<sup>63</sup> Each shipper has a single set of conversion rights under the combined blanket certificate authority of the pipeline, and those rights apply on the entire pipeline as a unified entity. If such a pipeline received its initial Part 284 blanket certificate prior to the issuance of Order No. 509, that certificate governs the conversion rights on the pipeline system in its entirety, and Order No. 509 does

<sup>61</sup> AGD's rehearing request at 4.

<sup>62</sup> Order No. 509, 53 FR at 50,930, III FERC Stats. & Regs. at 31,278.

<sup>63</sup> The Commission addressed Columbia's request in Order No. 509, 53 FR at 50,936, n. 67, III FERC Stats. & Regs. at 31,288, n. 67.

<sup>60</sup> Order No. 509, 53 FR at 50,929, n. 26, III FERC Stats. & Regs. at 31,276, n. 26.



not in any way alter, increase or decrease those rights.

#### L. Casinghead Gas; Order No. 500 Crediting Mechanism

Several producers requested rehearing on grounds that the Commission should (1) provide a transportation capacity priority for casinghead gas produced on the OCS and (2) provide that the Order No. 500 take-or-pay crediting mechanism should not apply to OCS gas.<sup>64</sup>

Amoco alleges that the Commission failed to address the possibility of waste of valuable natural resources because of a failure to provide a priority for casinghead gas,<sup>65</sup> and that the Commission disregarded the fact that shut-in casinghead gas equates to shut-in OCS oil and that this oil is vital to our national security. Amoco accuses the Commission of mistakenly equating offshore casinghead gas with onshore casinghead gas, in derogation of the requirement in section 5(e) of the OCSLA to consider conservation and the prevention of waste. Finally, Amoco suggests that the case specific approach promised by the Commission in Order No. 509 is inadequate because it fails to fully appreciate the different problems facing offshore production.<sup>66</sup>

The Commission disagrees with Amoco that a case by case approach is either inadequate or inappropriate. In light of section 5(e) of the OCSLA, the Commission, after considering all the comments, determined that a case specific approach was warranted given the requirements of: (1) A hearing with due notice to the interested parties; (2) consultation with the Secretary of Energy; and (3) consideration of conservation and the prevention of waste. The Commission notes that other producers agree with this approach.<sup>67</sup>

<sup>64</sup> See the rehearing request of Amoco at 3, 15; rehearing request of Indicated Producers at 21; and supplemental rehearing request of Phillips Petroleum Company at 1.

<sup>65</sup> Amoco's rehearing request at 3.

<sup>66</sup> Amoco's rehearing request at 6. Amoco cites the threat of hurricanes and other severe weather conditions as compounding the logistical challenge on the OCS of moving men and equipment from site to site.

<sup>67</sup> See, e.g., ARCO's request for rehearing at 4-5;

Other factors such as onshore bottlenecks, casinghead gas production, transportation needed to sustain the capital commitments for future gas production in deeper waters, and reservoir damage situations must be taken into account. ARCO is not urging priorities for a particular class of service or type of production. However, we do recognize that these and other factors should be considered in case specific proceedings for transportation opportunities in the OCS so that service may be provided without discrimination and that the Commission's goals under Order No. 500 may be achieved.

These rehearing requests do not raise any issues that were not considered by the Commission in Order No. 509, and, for the reasons stated in that order, the Commission denies rehearing.<sup>68</sup> Nothing in Order No. 509 alters in any way the treatment of casinghead gas or the take-or-pay crediting mechanism as that treatment was determined in Order No. 500. Order No. 500 is an interim rule that is currently pending before the Commission. The issues raised by the producers in this docket are pending in the Order No. 500 docket, and will be addressed in a subsequent order in that docket.

#### M. Offshore California Pipelines.

Pacific Interstate Offshore Company (PIOC) and Pacific Offshore Pipeline Company (POPCO) request exemption or waiver from, or rehearing of, Order No. 509. POPCO and PIOC are both offshore California pipelines, each eight miles long. Both have a single source of gas and a single customer to whom all of its gas is delivered, Southern California Gas Company. There are no other potential supplies in their vicinity, and they do not interconnect with any lateral lines, trunklines or multiple producing fields.<sup>69</sup>

POPCO and PIOC argue that Order No. 509 addresses problems and conditions applicable to the Gulf of Mexico but not to California, and that as a practical matter they are part of the intrastate California market. They contend that the costs associated with complying with Order No. 509 will be substantial,<sup>70</sup> and that if no party has or will use such transportation existing customers or shareholders will pay the costs of the tariff filings for no apparent reason or benefit.

POPCO is a project-financed pipeline that provides service under a cost-of-service tariff. POPCO requests that the Commission exempt it from Order No. 509 under section 5(f)(2) of the OCSLA,<sup>71</sup> asserting that it qualifies for exemption as a pipeline that feeds into a facility where gas is first processed.

The Commission denies the requests for waiver and exemption. Both pipelines own and operate facilities on

<sup>68</sup> See, Order No. 509, 53 FR at 50,936, III FERC Stats. & Regs. at 31, 289-290.

<sup>69</sup> See PIOC at 8; POPCO at 8.

<sup>70</sup> POPCO and PIOC each estimate the cost of preparing and filing the tariff at \$100,000.

<sup>71</sup> Section 5 (f)(2) of the OCSLA states that "the Federal Energy Regulatory Commission may, by order or regulation, exempt from any or all of the requirements of paragraph (1) [the open access provision] of this subsection any pipeline or class of pipelines which feeds into a facility where oil and gas are first collected or a facility where oil and gas are first separated, dehydrated, or otherwise processed." 43 U.S.C. 1334(f)(2) (1982).

the OCS, transport gas in interstate commerce, and are subject to the Commission's jurisdiction under both the NGA and the OCSLA. Under the facts presented by both PIOC and POPCO, their sole customer will not suffer any disruption in service as a result of complying with Order No. 509. While both pipelines will have to incur certain regulatory expenses to comply with Order No. 509, those expenditures don't justify the relief sought. If the facts and circumstances change in the future, such that gas supplies in the vicinity of POPCO and PIOC become available to other shippers, the blanket certificates will assure that potential shippers have nondiscriminatory access to capacity. PICO and POPCO may, if they wish, file a statement explaining why their current rates are not unjust, unreasonable or unduly discriminatory. If no service is performed under the blanket certificate, the tariff provisions filed to implement it will not cause any alteration in the economic relationship of the parties other than the one-time expense of preparing and filing them.

#### N. Effective Dates

Sea Robin seeks clarification regarding when the blanket certificates issued in Order No. 509 take effect if the OCS pipeline already has rates on file that conform to Part 284.<sup>72</sup> Sea Robin believes the effective date of the certificates is April 1, 1989. The rule adopted in Order No. 509 becomes effective on February 17, 1989. Pursuant to § 284.303, on or after that date the certificate is in effect as soon as the OCS pipeline has in effect rates that comply with § 284.305. The latest date at which that can occur<sup>73</sup> is April 1, 1989, but it could well occur earlier for particular pipelines.

In this regard, Transco seeks clarification regarding which OCS pipelines must file tariffs to implement their blanket certificates. Transco notes that will the preamble to Order No. 509 states that every OCS pipeline will have to file tariffs to implement the blanket certificates issued by the final rule, the regulations only require those OCS pipelines that don't have transportation rate schedules on file that conform to Part 284 to file conforming rates schedules.<sup>74</sup> Transco seeks clarification that OCS pipelines that are already open access (both onshore and offshore)

<sup>72</sup> Sea Robin's rehearing request at 6.

<sup>73</sup> Note that § 284.303 provides for the certificate to go into effect if rates filed pursuant to § 284.305(b) are suspended.

<sup>74</sup> See 18 CFR 284.305(b) (1988).



do not need to file tariffs under the regulations.

OCS pipelines who currently have Part 284 rates in effect will probably need to file certain additions or amendments to their tariffs, and should carefully review the regulations adopted in Order No. 509 on that subject, particularly § 284.305. See, for instance, § 284.305(e), which requires tariff provisions setting forth the method by which firm transportation capacity will be reallocated under § 284.304(c) in the event that two or more shippers seek to obtain the firm capacity that one or more shippers offer to relinquish.

ANR, Tennessee, AGD, Enron and the Indicated Producers, request that the Commission postpone the effectiveness of Order No. 509.<sup>75</sup> ANR, AGD and Tennessee suggest that the Commission postpone the effective date of Order No. 509 until after it issues the order on rehearing. Those requests have been rendered moot by this order.

AGD asks that the Commission publish a new notice of proposed rulemaking that includes the elements set forth in Order No. 509. AGD's request is based on its belief that there were fundamental changes from the NOPR, and that there was an absence of a meaningful opportunity to comment on the salient features of Order No. 509 before its issuance. The Commission denies AGD's request. The "salient features" of Order No. 509 were contained in the proposed rule, *i.e.*, the imposition of Part 284, Subpart G blanket certificates on all OCS pipelines and rates that must be in conformance with Part 284.<sup>76</sup> The elimination of the proposed pro rata requirements in the final rule, and the substitution of the open season and voluntary reallocation provisions in lieu thereof, are both the product of the Commission's careful consideration of the comments that were filed in this proceeding, and were in response to those comments.

Enron asks that the commencement of the open season for firm capacity be postponed until June 1, 1989. Enron states that the March 1, 1989 deadline does not provide enough time to set up the administrative mechanisms necessary to conduct the open season in an efficient and orderly manner. Enron asserts that this is particularly true for those pipelines that did not previously operate on an open access basis offshore. Finally, Enron suggests that the March 1, 1989 deadline is also

inadequate from a shipper's perspective because it leaves little time to line up necessary gas supplies and markets.

Enron's request is denied. Order No. 509 was issued on December 9, 1988. Enron has had ample opportunity to set up the relatively simple mechanisms necessary to conduct the open seasons; basically, those mechanisms consist of communicating with its customers and potential customers. The potential shippers also have had adequate opportunity to formulate their plans.

The Indicated Producers express concern that prospective shippers will not have sufficient information to request capacity in an open season unless the open season is delayed:

Because of the timing of the exclusive open season, prospective firm shippers may be compelled to decide whether to request firm capacity on pipelines that do not have existing applicable tariffs without knowing how much that capacity will ultimately cost. Thus, it will be difficult for potential shippers and purchasers of OCS gas to evaluate sources of supply and alternate transportation routes.

In addition, the total firm capacity available on OCS pipelines for the winter heating season beginning October 1989 will not be known until September of that year, at the conclusion of the offshore pipeline construction season. If uncommitted and voluntarily relinquished capacity is to be reallocated in an open season after the OCS pipelines begin operating under their blanket certificates, that reallocation should take place in September 1989, when the total firm capacity available to shippers is known.

The rule requires that the open seasons for firm and interruptible service be commenced no later than March 1, 1989, to be completed during March.<sup>77</sup> The rates must be filed by March 1, 1989, to be effective no later than April 1, 1989.<sup>78</sup> Thus, at the open seasons potential shippers may or may not know what rates are or will be effective, but they will clearly know what rates have been filed. Moreover, both the pipeline and the shippers will know what capacity currently exists and what capacity is planned for construction during the summer.

To be sure, potential shippers might (or might not) have somewhat more information with respect to a particular pipeline's rates and capacity if the open seasons are delayed until September of 1989, just as they might (or might not) have yet more information if the open seasons are delayed until December, or until 1990. But, on the other hand, delay in holding the open seasons may deprive other shippers of an opportunity to obtain capacity that they currently need

and want. Information is relative, and no particular point in time is perfect for everyone. On balance, we believe that the potential harm inherent in delaying the reallocation of capacity for those who seek such reallocation outweighs the potential benefit to be gained by delaying the open seasons.

In this regard, the open seasons do not constitute a one-time cataclysmic reallocation of capacity that will be locked in concrete forever after. On the contrary, the open seasons are merely a starting point for pipelines and shippers to gain information on who needs and wants capacity, and on what capacity is available. Thereafter, mechanisms will be in place for orderly, voluntary, nondiscriminatory reallocations of capacity as individual shippers' circumstances change over time.<sup>79</sup> We prefer to start that process now rather than later.

However, we agree that a one month extension for the open seasons would provide potential shippers an opportunity to better formulate their plans after the rates have been filed and before the open seasons take place. Accordingly, we are amending § 284.304 (a) and (b) to change the commencement dates for the open seasons from March 1, 1989 to April 1, 1989.

We do not adopt the Independent Producers' suggestion of prescribing periodic open seasons for firm transportation.<sup>80</sup> Section 284.304(c) provides a mechanism for reallocating firm capacity as soon as such capacity becomes available, and it also provides a mechanism by which potential shippers can take the initiative of ascertaining whether it is available. We believe this flexible approach would be more responsive to changing market conditions than holding open seasons at rigidly fixed intervals.

#### O. Section 603 of the OCSLA.

Section 603 of the Outer Continental Shelf Lands Act Amendments of 1978 (OCSLA) required the Commission to issue a statement of policy to carry out the purpose of the section, which was to:

Encourage expanded participation by local distribution companies in acquisition of leases and development of natural gas resources on the Outer Continental Shelf by facilitating the transportation in interstate commerce of natural gas, which is produced from a lease located on the Outer Continental Shelf and owned, in whole or in part, by a local distribution company, from such lease to the service area of such local distribution company.<sup>81</sup>

<sup>75</sup> See ANR's rehearing request at 13; Tennessee's rehearing request at 21; AGD's rehearing request at 11; and Enron's rehearing request at 10.

<sup>76</sup> See NOPR, IV FERC Stats & Regs. ¶ 32,459 at 32,203-206.

<sup>77</sup> 18 CFR 284.304(a), 284.304(b) (1988).

<sup>78</sup> 18 CFR 284.305(b) (1988).

<sup>79</sup> See, e.g., 18 CFR 284.304(c) (1988).

<sup>80</sup> Indicated Producers' request for rehearing at 11-14.

<sup>81</sup> 43 U.S.C. 1862 (1982).



The Commission issued a statement of policy in 1980 (Order No. 92).<sup>82</sup>

AGD asks the Commission to clarify that Order No. 509 does not undermine section 603 of the OCSLA or the Commission's regulations promulgated in Order No. 92.<sup>83</sup> AGD argues that because Congress directed the Commission to issue a policy statement, it must have intended to limit the nondiscrimination provisions of the OCSLA including section 5(f)(1)(A). AGD further asserts that whatever regulations the Commission may implement to enforce the nondiscrimination provisions of the OCSLA, they must defer to section 603 of the OCSLA and Order No. 92.

The Commission does not agree. First, as stated in the final rule, the goals of section 603 and Order No. 92 are furthered by the requirements of Order No. 509. The blanket certificates issued by Order No. 509 will provide local distribution companies (LDCs) significant opportunities to obtain transportation of their gas.

Second, the main thrust of the Commission's implementation of section 603 of the OCSLA is contained in § 284.243 of the Commission's regulations, which provides as follows:

**Section 284.243 Statement of policy.**

*Interstate pipelines.* Any interstate pipeline, or eligible distributor acting on behalf of an interstate pipeline, may file an application under § 284.244 for covered transportation under either section 7(c) of the Natural Gas Act or section 311(a)(1) of the Natural Gas Policy Act (NGPA). The Commission will consider such applications on a priority basis.<sup>84</sup>

However, Order No. 509 eliminates the requirement for OCS pipelines to file "applications" for authorization to provide transportation service for LDC's on the OCS; they have the authorization under the blanket certificates and are obligated by those certificates to provide nondiscriminatory transportation of OCS gas for all shippers, including LDC's. Also, Order No. 509 eliminates the requirement that gas be produced from OCS leases in whole or in part by the LDC and used for system supply.

Finally, as a general matter, statements of policy usually do not have the force and effect of law, while agency regulations do. Therefore, even if Order No. 509 and the regulations thereunder

did not further the purpose of section 603 (which they do), the Commission would not agree with AGD that the regulations promulgated in Order No. 509 "must defer to" the regulations promulgated in Order No. 92.

For the reasons discussed above, all requests for rehearing that are not specifically granted are denied.

**List of Subjects in 18 CFR Part 284**

Continental shelf, Natural gas, Reporting and recordkeeping requirements.

In consideration of the foregoing, the Commission amends Part 284, Chapter I, Title 18 Code of Federal Regulations as set forth below.

By the Commission, Commissioner Trabandt concurred with a separate statement attached.

Lois D. Cashell,  
Secretary.

**PART 284—CERTAIN SALES AND TRANSPORTATION OF NATURAL GAS UNDER THE NATURAL GAS POLICY ACT OF 1978 AND RELATED AUTHORITIES**

1. The authority citation for Part 284 continues to read as follows:

Authority: Natural Gas Act, 15 U.S.C. 717-717w (1982), as amended; Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432 (1982); Outer Continental Shelf Lands Act of 1953, 43 U.S.C. 1331-1356 (1982) as amended; Department of Energy Organization Act, 42 U.S.C. 7101-7352 (1982); E.O. 12009, 3 CFR 1978 Comp., p. 142.

2. In § 284.302, paragraph (b) is revised to read as follows:

**§ 284.302 Definitions.**

(b) "OCS pipeline" means an interstate natural gas pipeline that holds a certificate under section 7 of the NGA authorizing the construction and operation of facilities on the OCS, and includes all of the OCS pipeline's facilities that fall within the scope of the Commission's jurisdiction under section 7 of the NGA to the full extent that such facilities are used or necessary to transport natural gas on or across the OCS between:

- (1) Any locations on the OCS (if the pipeline does not have an interconnection off the OCS), or
- (2) The OCS and the first point of interconnection on the shoreward side of the OCS where the pipeline delivers or receives natural gas to or from either:
  - (i) A natural gas conditioning or processing facility, or
  - (ii) Another pipeline, or
  - (iii) A distributor or end user of natural gas.

3. In § 284.304, paragraphs (a) in the introductory text and (b)(1), the words "March 1, 1989" are removed and the words "April 1, 1989" are inserted in their place and paragraph (a)(4) is revised to read as follows:

**§ 284.304 Allocation of firm and interruptible capacity on the OCS.**

(a) *Open season for firm transportation.* \* \* \*

(4)(i) Except as provided in paragraph (a)(4)(iv) below, if the requests for firm capacity exceed the firm capacity that is available, the OCS pipeline must allocate to each requesting shipper a pro rata share of the available firm capacity.

(ii) If the available firm capacity exceeds the requests for such capacity, and if the available firm capacity includes capacity that one or more existing shippers wants to relinquish, each shipper relinquishing capacity must be allowed to satisfy the requests for firm capacity on a pro rata basis. To the extent that the OCS pipeline itself has uncommitted firm capacity available, it may assign that uncommitted capacity to the new shipper(s) before reallocating the capacity of existing shippers.

(iii) In reallocating firm capacity under paragraphs (a)(4)(i) or (a)(4)(ii), the OCS pipeline must take into account the capacity available at the particular receipt and delivery points specified by both shippers requesting firm capacity and the shippers voluntarily relinquishing firm capacity.

(iv) If an OCS pipeline already has a list of potential shippers who want firm capacity, and if that list was compiled in a nondiscriminatory manner pursuant to the conditions of an order issuing a Part 284 blanket certificate or pursuant to the provisions of a tariff filed to implement Part 284 requirements, the pipeline shall accord priority to those potential firm shippers at the open season.

\* \* \*

4. In § 284.305, paragraph (f) is removed and paragraphs (a) and (d)(2) are revised to read as follows:

**§ 284.305 Transportation rates.**

(a) Except to the extent authorized by paragraph (d)(2), the transportation rate for transportation of gas on the OCS by an OCS pipeline must be the rate in a transportation rate schedule on file with the Commission that conforms to § 284.7, and to either § 284.8(d) for firm service or to § 284.9(d) for interruptible service.

\* \* \*

(d) \* \* \*

(2) An OCS pipeline may continue to use its current rates to perform

<sup>82</sup> Statement of Policy on Distribution Access to Outer Continental Shelf Gas, Order No. 92, 45 FR 49,247 (July 24, 1980); FERC Stats. & Regs. [Regulations Preambles 1977-1981] § 30,173 (July 15, 1980).

<sup>83</sup> AGD's rehearing request at 8.

<sup>84</sup> 18 CFR 284.243 (1988).



transportation pursuant to certificates other than Part 284 blanket transportation certificates. An OCS pipeline that elects to use its current rates for that transportation after April 1, 1989, must file, no later than March 1, 1989, a notification to that effect plus a statement explaining why it believes that continued use of those rates would not be unjust, unreasonable, or unduly discriminatory in light of activities it performs under the blanket certificate issued by § 284.303(a) and the rates filed to implement that certificate.

**TRABANDT, Commissioner, concurring:** I concur in this Order on Rehearing with several reservations. I invite the attention of interested parties to my Concurring Opinion issued with Order No. 509, the Final Rule in these dockets (45 FERC ¶ 61,406). Each of my reservations is discussed in more detail in the earlier opinion.

First, I would have preferred strongly to grant rehearing as sought by the Indicated Producers and others on the issues of (1) a priority for casinghead gas, (2) application of the Order No. 500 take-or-pay crediting mechanism, and (3) the definition of an OCS pipeline to include assured access to nondiscriminatory transportation ashore. The rehearing petitions added additional, persuasive argumentation to the concerns expressed in my earlier opinion in support of granting rehearing. Consequently, the Commission should have more adequately responded to those issues.

Second, I would have deferred the initiation of the open seasons for capacity allocation from April 1, 1989, for at least one month, if not longer, as sought by the Indicated Producers. I am pleased that the Commission agreed to a one month delay. But, I still do not believe that potential shippers will have adequate information about rates on which to base their nominations. It is difficult to conclude that the rate cases for all OCS pipelines, particularly those filing to continue existing rates under the new procedures in this order, will be completed by April, when shippers must make their nominations. There also does not appear to be any demonstrable disadvantage to a further, modest delay to better ensure a more orderly process, while still having the new system in place and operational by the winter heating season of 1989-1990.

Third, I would have preferred to expressly grant the requests for rehearing of Texas Eastern and Tennessee with regard to the open season for interruptible transportation (slip opinion at 37-39). Tennessee and Texas Eastern did not "misread" Order No. 509, as the order concludes. As my earlier concurring opinion demonstrated beyond any reasonable doubt (pages 8 and 9 of the opinion), the priority to be afforded existing shippers was subordinated in Order No. 509 to a requirement in the regulations (sec. 284.304(b)) that such shippers pay transportation rates "no lower than the rates paid or to be paid by other interruptible shippers." Footnote 24 of that order makes

the intended result quite clear. The "clarification" here at page 39 is intended to resolve the matter, as I was assured by the staff at the February 15, 1989, Commission meeting, but without directly granting rehearing. I strongly support the result of that clarification, and it should now be abundantly clear that existing shippers have an unsubordinated and unconditional right to a priority. Consequently, despite the relative technicality as to whether Tennessee and Texas Eastern misread Order No. 509 and, thereby, clarification or rehearing is most appropriate, the regulatory result is unambiguously clear—existing shippers must be given priority in the open season for interruptible transportation.

Finally, I questioned seriously the rationale and justification supporting Order No. 509 and its mandatory imposition of Order No. 436 blanket certificates on all jurisdictional OCS pipelines for the reasons discussed in my earlier opinion. I also expressed deep concern about the potential for disruption in OCS pipeline transportation services under the implementation procedures of the Final Rule. The rehearing petitions and the adjustments in the instant order have addressed those questions and concerns to some extent. On balance, therefore, I am prepared to support this Order on Rehearing despite some lingering questions and concerns about those issues, as well as the aforementioned reservations. In all likelihood, a reviewing U.S. Circuit Court of Appeals ultimately will determine the legality of the mandatory imposition of the blanket certificates and the form of the certificates. In the meantime, hopefully, mandatory open access transportation services will be implemented across all jurisdictional OCS pipelines this spring with no interruption of existing services and minimum disruption of OCS production activities in the months ahead.

For these reasons, I concur.

Charles A. Trabandt,

Commissioner.

[FR Doc. 89-4557 Filed 2-27-89; 8:45 am]

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 5

#### Delegations of Authority and Organization; Center for Biologics Evaluation and Research and Center for Drug Evaluation and Research, et al.

**AGENCY:** Food and Drug Administration.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the regulations for delegations of authority relating to functions performed by the Center for Biologics Evaluation and Research (CBER), the Center for Drug

Evaluation and Research (CDER), the Center for Devices and Radiological Health (CDRH), and regional offices. This amendment updates the titles of the delegates to conform to new organizational structures. The amendment also updates the delegation regarding approval of new drug applications and their supplements and removes the obsolete delegation regarding bioequivalency requirements.

**EFFECTIVE DATE:** February 28, 1989.

**FOR FURTHER INFORMATION CONTACT:** Melissa M. Moncavage, Office of Management and Operations (HFA-340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. 301-443-4976.

**SUPPLEMENTARY INFORMATION:** The Center for Drugs and Biologics was reorganized into CBER and CDER. The center level structure was approved by the Secretary of Health and Human Services and published in the Federal Register of October 15, 1987 (52 FR 38275). The office level structure was approved by the Assistant Secretary for Health and published March 18, 1988 (53 FR 8978). When the functional statements for CBER and CDER were published on October 15, 1987 and March 18, 1988, a continuing delegation of authority was included in the reorganization to permit CBER and CDER officials to continue normal operations until the centers' substructures were finalized. Most of the authorities delegated to the center officials are amended in this document to reflect new titles and organizational placement under the new organizations.

This document revises the delegations of authority contained in 21 CFR Part 5 relating to the functions assigned to CBER and CDER. The affected sections are the following:

Section 5.22 *Certification of true copies and use of Department seal* (21 CFR 5.22); § 5.23 *Disclosure of official records* (21 CFR 5.23); § 5.25 *Research, investigation, and testing programs and health information and health promotion programs* (21 CFR 5.25); § 5.26 *Service fellowships* (21 CFR 5.26); § 5.30 *Hearings* (21 CFR 5.30); § 5.31 *Petitions under Part 10* (21 CFR 5.31); § 5.37 *Issuance of reports of minor violations* (21 CFR 5.37); § 5.44 *Export of unapproved drugs* (21 CFR 5.44); § 5.45 *Imports and exports* (21 CFR 5.45); § 5.47 *Detention of adulterated or misbranded medical devices* (21 CFR 5.47); § 5.49 *Authorization to use alternative evidence for determination of the effectiveness of medical devices* (21 CFR 5.49); § 5.50 *Notification to petitioners of determinations made on*



petitions for reclassification of medical devices (21 CFR 5.50); § 5.52 Notification to sponsors of deficiencies in petitions for reclassification of medical devices (21 CFR 5.52); § 5.53 Approval, disapproval, or withdrawal of approval of product development protocols and applications for premarket approval for medical devices (21 CFR 5.53); § 5.54 Determinations that medical devices present unreasonable risk of substantial harm (21 CFR 5.54); § 5.55 Orders to repair or replace, or make refunds for, medical devices (21 CFR 5.55); § 5.58 Orphan products (21 CFR 5.58); § 5.59 Approval, disapproval, or withdrawal of approval of applications for investigational device exemptions (21 CFR 5.59); § 5.67 Issuance of notices of opportunity for a hearing on proposals for denial of approval of applications for licenses or revocation of licenses and certain notices of revocation of licenses (21 CFR 5.67); § 5.68 Issuance and revocation of licenses for the propagation or manufacture and preparation of biological products (21 CFR 5.68); § 5.69 Notification of release for distribution of biological products (21 CFR 5.69); § 5.70 Issuance of notice implementing the provisions of the Drug Amendments of 1962 (21 CFR 5.70); § 5.71 Termination of exemptions for new drugs for investigational use in human beings and in animals (21 CFR 5.71); § 5.73 Certification of insulin (21 CFR 5.73); § 5.74 Issuance, amendment, or repeal of regulations pertaining to drugs containing insulin (21 CFR 5.74); § 5.75 Designation of official master and working standards for antibiotic drugs (21 CFR 5.75); § 5.76 Certification of antibiotic drugs (21 CFR 5.76); § 5.78 Issuance, amendment, or repeal of regulations pertaining to antibiotic drugs (21 CFR 5.78); § 5.80 Approval of new drug applications and their supplements (21 CFR 5.80); § 5.82 Issuance of notices relating to proposals to refuse approval or to withdraw approval of new drug applications and their supplements (21 CFR 5.82); § 5.94 Extensions or stays of effective dates for compliance with certain labeling requirements for human prescription drugs (21 CFR 5.94).

In addition, FDA is changing titles in the sections listed above because of other reorganizations. In § 5.22 and 5.26, FDA is changing the Director, Office of Management and Systems, Center for Devices and Radiological Health (CDRH), to the Director, Office of Management Services, CDRH, to conform with the reorganization approved by the Director, Office of Management, Public Health Service, and published in the Federal Register of

March 3, 1987 (52 FR 6393). FDA is changing the regional organization titles in § 5.22 from Region II and Region IV to Northeast Region and Southeast Region, respectively, to conform to the new field structure approved by the Assistant Secretary for Health and published in the Federal Register of July 2, 1987 (52 FR 25080).

FDA is adding the Deputy Director, National Center for Toxicological Research to the list of officials in §§ 5.25 and 5.26 to be consistent with the other centers listed in the delegation.

FDA is removing § 5.79 *Issuance, amendment, or repeal of regulations establishing bioequivalence requirements for drug products for human use* (21 CFR 5.79) because the delegation is obsolete.

Finally, FDA is amending § 5.80 *Approval of new drug applications and their supplements* (21 CFR 5.80) to define accurately the types of drugs that are not considered new molecular entities.

Further redelegation of the authority delegated is not authorized. Authority delegated to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis.

#### List of Subjects in 21 CFR Part 5

Authority delegations (Government agencies), Imports, Organization and functions (Government agencies).

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 5 is amended as follows:

#### PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

1. The authority citation for 21 CFR Part 5 continues to read as follows:

Authority: 5 U.S.C. 504, 552; 7 U.S.C. 2217; 15 U.S.C. 638, 1451 *et seq.*, 3701 *et seq.*; 21 U.S.C. 41 *et seq.*, 61–63, 141 *et seq.*, 301–392, 467f(b), 679(b), 801 *et seq.*, 823(f), 1031 *et seq.*; 35 U.S.C. 156; 42 U.S.C. 219, 241, 242(a), 242a, 242l, 242o, 243, 262, 263, 263b through 263m, 264, 265, 300u *et seq.*, 1395y and 1395y note, 3246b(b)(3), 4831(a), 10007, and 10008; Federal Caustic Poison Act (44 Stat. 1406); Federal Advisory Committee Act (Pub. L. 92–463); E.O. 11490, 11921, 12591.

2. Section 5.22 is amended by revising paragraphs (a)(7) (i) through (v), by removing paragraph (a)(7)(vi), by revising paragraph (a)(9)(ii), by redesignating paragraph (a)(12) as paragraph (a)(13), by adding new paragraph (a)(12), and by revising redesignated paragraphs (a)(13)(v) and (a)(13)(vi) to read as follows:

#### § 5.22 Certification of true copies and use of Department seal.

(a) \* \* \*

(7)(i) The Director and Deputy Director, Center for Biologics Evaluation and Research (CBER).

(ii) The Director, Office of Management, CBER.

(iii) The Directors and Deputy Directors of the Offices of Compliance, Biological Product Review and Biologics Research, CBER.

(iv) The Chiefs of the Case Management Staff and the Inspections and Surveillance Staff, Regulations and Bioresearch Monitoring Staff, Office of Compliance, CBER.

(v) The Chief, Biologics Information Staff, Office of Biological Product Review, CBER.

\* \* \* \* \*

(9) \* \* \*

(ii) The Director, Office of Management Services, CDRH.

\* \* \* \* \*

(12)(i) The Director and Deputy Director, Center for Drug Evaluation and Research (CDER).

(ii) The Directors and Deputy Directors of the Offices of Management, Epidemiology and Biostatistics, Compliance, Drug Evaluation I, Drug Evaluation II, Drug Standards, and Research Resources, CDER.

(iii) The Chief, Freedom of Information Staff and Freedom of Information Officers, Office of Management, CDER.

(iv) The Directors of the Division of Drug Labeling Compliance, Drug Quality Evaluation, and Manufacturing and Product Quality, Office of Compliance, CDER.

(13) \* \* \*

(v) The Director, New York Laboratory Division, Northeast Region.

(vi) The Director, Science Division, Southeast Region.

\* \* \* \* \*

3. Section 5.23 is amended by revising paragraphs (b) and (e) to read as follows:

#### § 5.23 Disclosure of official records.

\* \* \* \* \*

(b) The Chief, Drug Listing Branch, Division of Drug Labeling Compliance, Office of Compliance, Center for Drug Evaluation and Research (CDER), is authorized to sign affidavits regarding the presence or absence of records of Registration of Drug Establishments.

\* \* \* \* \*

(e) The Director and Deputy Director, Division of Product Certification, Office of Biological Product Review, Center for Biologics Evaluation and Research, are



authorized to sign affidavits regarding the presence or absence of records of registration of blood product establishments.

4. Section 5.25 is amended by revising paragraphs (a)(1) and (a)(3) and by adding a new paragraph (a)(6) to read as follows:

**§ 5.25 Research, investigation, and testing programs and health information and health promotion programs.**

(a) \* \* \*

(1) The Director and Deputy Director, National Center for Toxicological Research.

\* \* \* \* \*

(3) The Director and Deputy Director, Center for Biologics Evaluation and Research.

\* \* \* \* \*

(6) The Director and Deputy Director, Center for Drug Evaluation and Research.

\* \* \* \* \*

5. Section 5.26 is amended by revising the section heading and paragraphs (b), (c), and (d), by redesignating paragraph (g) as paragraph (h), and by adding a new paragraph (g) to read as follows:

**§ 5.26 Service fellowships.**

\* \* \* \* \*

(b) The Director and Deputy Director, National Center for Toxicological Research (NCTR), and the Director, Office of Management, NCTR.

(c) The Director and Deputy Director, Center for Devices and Radiological Health (CDRH), and the Director, Office of Management Services, CDRH.

(d) The Director and Deputy Director, Center for Biologics Evaluation and Research (CBER), and the Director, Office of Management, CBER.

\* \* \* \* \*

(g) The Director and Deputy Director, Center for Drug Evaluation and Research (CDER), and the Director and Deputy Director, Office of Management, CDER.

\* \* \* \* \*

6. Section 5.30 is amended by revising paragraph (a)(2), by redesignating paragraphs (a)(5) through (a)(7) as paragraphs (a)(6) through (a)(8), by adding new paragraph (a)(5), by revising paragraph (c)(3), by redesignating paragraphs (c)(6) through (c)(9) as paragraphs (c)(7) through (c)(10), and by adding new paragraph (c)(6) to read as follows:

**§ 5.30 Hearings.**

(a) \* \* \*

(2) The Director and Deputy Director, Center for Drug Evaluation and Research (CDER), and the Directors and

Deputy Directors of the Offices of Drug Evaluation I, Drug Evaluation II, and Compliance, CDER.

\* \* \* \* \*

(5) The Director and Deputy Director, Center for Biologics Evaluation and Research (CBER), and the Directors and Deputy Directors of the Offices of Biological Product Review, Biologics Research, and Compliance, CBER.

\* \* \* \* \*

(c) \* \* \*

(3) The Director and Deputy Director, CDER, and the Directors and Deputy Directors of the Offices of Drug Evaluation I, Drug Evaluation II, and Compliance.

\* \* \* \* \*

(6) The Director and Deputy Director, CBER, and the Directors and Deputy Directors of the Offices of Biological Product Review, Biologics Research, and Compliance, CBER.

\* \* \* \* \*

7. Section 5.31 is amended by revising paragraphs (a), (b)(1), (b)(2), (b)(3), (c)(1), (d)(1), (d)(2), and (e)(3), by adding a new paragraph (e)(4), by revising paragraphs (f)(1) through (f)(5), and by adding a new paragraph (f)(6) to read as follows:

**§ 5.31 Petitions under Part 10.**

(a) For drugs assigned to their organizations, the following officials are authorized to grant or deny citizen petitions submitted under § 10.30 of this chapter for a stay of an effective date in § 201.59 of this chapter for compliance with certain labeling requirements for human prescription drugs.

(1)(i) The Director and Deputy Director, Center for Biologics Evaluation and Research (CBER).

(ii) The Directors and Deputy Directors of the Offices of Biological Product Review and Biologics Research, CBER.

(iii) The Directors and Deputy Directors of the divisions in the Offices of Biological Product Review and Biologics Research, CBER.

(2)(i) The Director and Deputy Director, Center for Drug Evaluation and Research (CDER).

(ii) The Directors and Deputy Directors of the Offices of Drug Evaluation I and Drug Evaluation II, CDER.

(iii) The Directors and Deputy Directors of the divisions in the Offices of Drug Evaluation I and Drug Evaluation II, CDER.

(b) \* \* \*

(1) The Director and Deputy Director, CDER.

(2) The Director and Deputy Director, Office of Drug Standards, CDER.

(3) The Director and Deputy Director, Division of OTC Drug Evaluation, Office of Drug Standards, CDER.

(c) \* \* \*

(1) The Director and Deputy Director, CDER, and the Director and Deputy Director, Office of Compliance, CDER.

\* \* \* \* \*

(d) \* \* \*

(1) The Director and Deputy Director, CDER.

(2) The Director and Deputy Director, Office of Drug Standards, CDER.

(e) \* \* \*

(3) The Director and Deputy Director, CBER, are authorized to issue 180-day tentative responses to citizen petitions on biological product matters under § 10.30(e)(2)(iii) of this chapter that relate to the assigned functions of that Center.

(4) The Director and Deputy Director, CDER, are authorized to issue 180-day tentative responses to citizen petitions on drug product matters under § 10.30(e)(2)(iii) of this chapter that relate to the assigned functions of that Center.

(f)(1) The Director and Deputy Director, CBER, are authorized to grant or deny citizen petitions submitted under § 10.30 of this chapter on drug and biological product matters in program areas where they have been delegated final approval authority in the following sections of this part:

(i) Section 5.68 *Issuance and revocation of licenses for the propagation or manufacture and preparation of biological products;*

(ii) Section 5.69 *Notification of release for distribution of biological products;*

(iii) Section 5.71 *Termination of exemptions for new drugs for investigational use in human beings or in animals;*

(iv) Section 5.80 *Approval of new drug applications and their supplements;* and

(v) Section 5.82 *Issuance of notices relating to proposals to refuse approval or to withdraw approval of new drug applications and their supplements.*

(2) The Director and Deputy Director, CDER, are authorized to grant or deny citizen petitions submitted under § 10.30 of this chapter on drug product matters in program areas where they have been delegated final approval authority in the following sections of this part:

(i) Section 5.70 *Issuance of notices implementing the provisions of the Drug Amendments of 1962 (DESI);*

(ii) Section 5.71 *Termination of exemptions for new drugs for investigational use in human beings or in animals;*

(iii) Section 5.73 *Certification of insulin;*



(iv) Section 5.74 *Issuance, amendment, or repeal of regulations pertaining to drugs containing insulin;*

(v) Section 5.75 *Designation of official master and working standards for antibiotic drugs;*

(vi) Section 5.76 *Certification of antibiotic drugs;*

(vii) Section 5.78 *Issuance, amendment, or repeal of regulations pertaining to antibiotic drugs;*

(viii) Section 5.80 *Approval of new drug applications and their supplements; and*

(ix) Section 5.82 *Issuance of notices relating to proposals to refuse approval or to withdraw approval of new drug applications and their supplements.*

(3) The Director and Deputy Director, Office of Drug Standards, CDER, except for those drug products listed in § 314.440(b) of this chapter, are authorized to issue responses to citizen petitions submitted under § 10.30 of this chapter seeking a determination of the suitability of an abbreviated new drug application for a drug product.

(4) The Director and Deputy Director, Office of Biological Product Review, CBER, for those drug products listed in § 314.440(b) of this chapter, are authorized to issue responses to citizen petitions submitted under § 10.30 of this chapter seeking a determination of the suitability of an abbreviated new drug application for a drug product.

(5) For drugs assigned to their organization, the following officials are authorized to issue responses to citizen petitions submitted under § 10.30 of this chapter from sponsors of an investigational new drug application who request approval to ship in interstate commerce, in accordance with § 2.125(j) of this chapter, an investigational new drug for human use containing a chlorofluorocarbon.

(i) The Director and Deputy Director, CBER.

(ii) The Director and Deputy Director, CDER.

(6) The Director and Deputy Director, CVM, are authorized to issue responses to citizen petitions submitted under § 10.30 of this chapter from sponsors of an investigational new animal drug application who request approval to ship in interstate commerce, in accordance with § 2.125(j) of this chapter, an investigational new animal drug for animal use containing a chlorofluorocarbon.

8. Section 5.37 is amended by revising paragraph (a)(1), by redesignating paragraph (a)(5) as paragraph (a)(6), and by adding a new paragraph (a)(5) to read as follows:

**§ 5.37 Issuance of reports of minor violations.**

(a) \* \* \*

(1)(i) The Director and Deputy Director, Center for Biologics Evaluation and Research (CBER).

(ii) The Director and Deputy Director, Office of Compliance, CBER.

(5)(i) The Director and Deputy Director, Center for Drug Evaluation and Research (CDER).

(ii) The Director and Deputy Director, Office of Compliance, CDER.

9. Section 5.44 is amended by revising paragraphs (a)(1)(i) and (a)(1)(ii), by adding new paragraphs (a)(1)(iii) and (a)(1)(iv), by revising paragraphs (b)(1)(i) through (b)(1)(iv), by revising paragraphs (c)(1) and (c)(2), and by removing paragraph (c)(3) to read as follows:

**§ 5.44 Export of unapproved drugs.**

(a) \* \* \*

(1) \* \* \*

(i) The Director and Deputy Director, Center for Biologics Evaluation and Research (CBER).

(ii) The Director and Deputy Director, Office of Compliance, CBER.

(iii) The Director and Deputy Director, Center for Drug Evaluation and Research (CDER).

(iv) The Director and Deputy Director, Office of Compliance, CDER.

(b) \* \* \*

(1) \* \* \*

(i) The Director and Deputy Director, CBER.

(ii) The Director and Deputy Director, Office of Compliance, CBER.

(iii) The Director and Deputy Director, CDER.

(iv) The Director and Deputy Director, Office of Compliance, CDER.

(c) \* \* \*

(1) The Director and Deputy Director, CBER.

(2) The Director and Deputy Director, Office of Compliance, CBER.

10. Section 5.45 is amended by revising paragraphs (e)(1)(iii) and (e)(1)(iv) to read as follows:

**§ 5.45 Imports and exports.**

(e) \* \* \*

(1) \* \* \*

(iii) The Director and Deputy Director, Center for Biologics Evaluation and Research (CBER).

(iv) The Director and Deputy Director, Office of Compliance, CBER.

11. Section 5.47 is amended by revising paragraphs (a)(3) and (4) to read as follows:

**§ 5.47 Detention of adulterated or misbranded medical devices.**

(a) \* \* \*

(3) The Director and Deputy Director, Center for Biologics Evaluation and Research (CBER).

(4) The Director and Deputy Director, Office of Compliance, CBER.

12. Section 5.49 is amended by revising paragraph (b) to read as follows:

**§ 5.49 Authorization to use alternative evidence for determination of the effectiveness of medical devices.**

(b) The Director and Deputy Director, Center for Biologics Evaluation and Research (CBER), and the Director and Deputy Director, Office of Biological Product Review, CBER.

13. Section 5.50 is amended by revising paragraph (b) to read as follows:

**§ 5.50 Notification of petitioners of determinations made on petitions for reclassification of medical devices.**

(b) The Director and Deputy Director, Center for Biologics Evaluation and Research (CBER), and the Director and Deputy Director, Office of Biological Product Review, CBER.

14. Section 5.52 is amended by revising paragraph (b) to read as follows:

**§ 5.52 Notification to sponsors of deficiencies in petitions for reclassification of medical devices.**

(b) The Director and Deputy Director, Center for Biologics Evaluation and Research (CBER), and the Director and Deputy Director, Office of Biological Product Review, CBER.

15. Section 5.53 is amended by revising paragraphs (a)(2) and (b)(1)(ii) to read as follows:

**§ 5.53 Approval, disapproval, or withdrawal of approval of product development protocols and applications for premarket approval for medical devices.**

(a) \* \* \*

(2) The Director and Deputy Director, Center for Biologics Evaluation and Research (CBER), and the Director and Deputy Director, Office of Biological Product Review, CBER.

(b)(1) \* \* \*

(ii) The Director and Deputy Director, CBER, and the Director and Deputy



Director, Office of Biological Product Review, CBER.

16. Section 5.54 is amended by revising paragraph (b) to read as follows:

**§ 5.54 Determinations that medical devices present unreasonable risk of substantial harm.**

(b) The Director and Deputy Director, Center for Biologics Evaluation and Research.

17. Section 5.55 is amended by revising paragraph (b) to read as follows:

**§ 5.55 Orders to repair or replace, or make refunds for, medical devices.**

(b) The Director and Deputy Director, Center for Biologics Evaluation and Research.

18. Section 5.58 is amended by revising paragraphs (c)(1) and (c)(2), and by removing paragraph (c)(3) to read as follows:

**§ 5.58 Orphan products.**

(c) \* \* \*

(1) For drugs under their jurisdiction:

(i) The Director and Deputy Director, Center for Drug Evaluation and Research (CDER).

(ii) The Directors and Deputy Directors of the Offices of Drug Evaluation I and Drug Evaluation II, CDER.

(iii) The Division Directors of the divisions in the Offices of Drug Evaluation I and Drug Evaluation II, CDER.

(2) For biological products under their jurisdiction:

(i) The Director and Deputy Director, Center for Biologics Evaluation and Research (CBER).

(ii) The Director and Deputy Director, Office of Biological Product Review, CBER.

(iii) The Directors and Deputy Directors of the divisions in the Office of Biological Product Review, CBER.

19. Section 5.59 is amended by revising paragraph (a)(2) to read as follows:

**§ 5.59 Approval, disapproval, or withdrawal of approval of applications for investigational device exemptions.**

(a) \* \* \*

(2) The Director and Deputy Director, Center for Biologics Evaluation and Research (CBER), and the Director and Deputy Director, Office of Biological Product Review, CBER.

20. Section 5.67 is amended by revising the introductory paragraph to read as follows:

**§ 5.67 Issuance of notices of opportunity for a hearing on proposals for denial of approval of applications for licenses or revocation of licenses and certain notices of revocation of licenses.**

The Director and Deputy Director, Center for Biologics Evaluation and Research are authorized to issue:

21. Section 5.68 is amended by revising the section heading and paragraphs (a) and (b) to read as follows:

**§ 5.68 Issuance and revocation of licenses for the propagation or manufacture and preparation of biological products.**

(a) The Director and Deputy Director, Center for Biologics Evaluation and Research (CBER).

(b) The Director and Deputy Director, Office of Biological Product Review, CBER.

22. Section 5.69 is amended by revising paragraphs (a), (b), and (c) to read as follows:

**§ 5.69 Notification of release for distribution of biological products.**

(a) The Director and Deputy Director, Center for Biologics Evaluation and Research (CBER).

(b) The Director and Deputy Director, Office of Biological Product Review, CBER.

(c) The Director and Deputy Director, Division of Product Quality Control, Office of Biological Product Review, CBER.

23. Section 5.70 is revised to read as follows:

**§ 5.70 Issuance of notice implementing the provisions of the Drug Amendments of 1962.**

The Director and Deputy Director, Center for Drug Evaluation and Research, are authorized to issue notices and amendments thereto implementing section 107(c)(3) of the Drug Amendments of 1962 (Pub. L. 87-781) by announcing new or revised efficacy findings on human drugs that are or were subject to the provisions of sections 505 and 507 of the Federal Food, Drug, and Cosmetic Act.

24. Section 5.71 is amended by revising paragraph (a), by redesignating paragraph (b) as paragraph (d), by adding a new paragraph (b), and by adding a new paragraph (c) to read as follows:

**§ 5.71 Termination of exemptions for new drugs for investigational use in human beings and in animals.**

(a) The following officials, for drugs under their jurisdiction, are authorized to perform all the functions of the Commissioner of Food and Drugs on the termination of exemptions for new drugs (including those that are biological products which are subject to the licensing provisions of the Public Health Service Act) for investigational use in human beings under § 312.44 of this chapter and in animals under § 312.160 of this chapter:

(1) The Director and Deputy Director, Center for Biologics Evaluation and Research (CBER).

(2) The Director and Deputy Director, Center for Drug Evaluation and Research (CDER).

(b) The following officials, for drugs under their jurisdiction, are authorized to terminate exemptions for new drugs for investigational use when sponsors fail to submit an annual progress report under § 312.44(b)(1)(viii) of this chapter:

(1) The Directors and Deputy Directors of the Offices of Drug Evaluation I and Drug Evaluation II, CDER.

(2) The Directors and Deputy Directors of the divisions in the Offices of Drug Evaluation I and Drug Evaluation II, CDER.

(3) The Director and Deputy Director, Office of Biological Product Review, CBER.

(4) The Director and Deputy Director, Division of Biological Investigational New Drugs, Office of Biological Product Review.

(c) The following officials, for drugs under their jurisdiction, are authorized to make the findings set forth in § 312.44(b) of this chapter and to notify sponsors and invite correction before termination action on such exemptions:

(1) The Directors and Deputy Directors of the Offices of Drug Evaluation I and Drug Evaluation II, CDER.

(2) The Directors and Deputy Directors of the divisions in the Offices of Drug Evaluation I and Drug Evaluation II, CDER.

(3) The Director and Deputy Director, Office of Biological Product Review, CBER.

(4) The Director and Deputy Director, Division of Biological Investigational New Drugs, Office of Biological Product Review.

25. Section 5.73 is amended by revising paragraphs (a), (b), (c), and (d) to read as follows:



**§ 5.73 Certification of insulin.**

(a) The Director and Deputy Director, Center for Drug Evaluation and Research (CDER).

(b) The Director and Deputy Director, Office of Compliance, CDER.

(c) The Director and Deputy Director, Division of Drug Quality Evaluation, Office of Compliance, CDER.

(d) The Chief and Assistant Chief, Product Surveillance Branch, Division of Drug Quality Evaluation, Office of Compliance, CDER.

26. Section 5.74 is amended by revising paragraphs (a) and (b) to read as follows:

**§ 5.74 Issuance, amendment, or repeal of regulations pertaining to drugs containing insulin.**

(a) The Director and Deputy Director, Center for Drug Evaluation and Research (CDER).

(b) The Director and Deputy Director, Office of Compliance, CDER.

27. Section 5.75 is amended by revising paragraphs (a), (b), and (c) to read as follows:

**§ 5.75 Designation of official master and working standards for antibiotic drugs.**

(a) The Director and Deputy Director, Center for Drug Evaluation and Research (CDER).

(b) The Director and Deputy Director, Office of Research Resources, CDER.

(c) The Director and Deputy Director, Division of Research and Testing, Office of Research Resources, CDER.

28. Section 5.76 is amended by revising paragraphs (a), (b), (c), and (d) to read as follows:

**§ 5.76 Certification of antibiotic drugs.**

(a) The Director and Deputy Director, Center for Drug Evaluation and Research (CDER).

(b) The Director and Deputy Director, Office of Compliance, CDER.

(c) The Director and Deputy Director, Division of Drug Quality Evaluation, Office of Compliance, CDER.

(d) The Chief and Assistant Chief, Product Surveillance Branch, Division of Drug Quality Evaluation, Office of Compliance, CDER.

29. Section 5.78 is amended by revising paragraphs (a)(1) and (a)(2) to read as follows:

**§ 5.78 Issuance, amendment, or repeal of regulations pertaining to antibiotic drugs.**

(a) \* \* \*

(1) The Director and Deputy Director, Center for Drug Evaluation and Research (CDER).

(2) The Director and Deputy Director, Office of Compliance, CDER.

**§ 5.79 [Removed]**

30. Section 5.79 *Issuance, amendment or repeal of regulations establishing bioequivalence requirements for drug products for human use* is removed.

31. Section 5.80 is amended by removing the introductory paragraph, and by revising paragraphs (a), (b), (c)(1)(i), (c)(1)(ii), (c)(2)(ii), (d)(1), and (d)(2) to read as follows:

**§ 5.80 Approval of new drug applications and their supplements.**

(a)(1) The following officials are authorized to perform all the functions of the Commissioner of Food and Drugs with regard to approval of new drug applications and supplements thereto on drugs for human use, except for those drugs listed in § 314.440(b) of this chapter, that have been submitted under section 505 of the Federal Food, Drug, and Cosmetic Act:

(i) The Director and Deputy Director, Center for Drug Evaluation and Research (CDER).

(ii) The Directors and Deputy Directors of the Offices of Drug Evaluation I and Drug Evaluation II, CDER, for drugs under their jurisdiction.

(2) The Director and Deputy Director, Center for Biologics Evaluation and Research (CBER), for drugs listed in § 314.440(b) of this chapter, are authorized to perform all the functions of the Commissioner of Food and Drugs with regard to approval of new drug applications and supplements thereto on drugs for human use that have been submitted under section 505 of the Federal Food, Drug, and Cosmetic Act.

(b) The officials listed in paragraphs (b) (1) and (2) of this section, for drugs under their jurisdiction, are authorized to perform all functions of the Commissioner of Food and Drugs with regard to approval of supplemental applications for drugs for human use that have been submitted under § 314.70 of this chapter and of new drug applications for drug products other than those that contain new molecular entities (new chemical entities). The applications to which this authorization applies may, in appropriate circumstances, continue to be acted upon by the officials so authorized in § 5.10(a) and paragraph (a) of this section.

(1) The Directors and Deputy Directors of the divisions in the Office of Drug Evaluation I, CDER.

(2) The Directors and Deputy Directors of the divisions in the Office of Drug Evaluation II, CDER.

(c) \* \* \*

(1) \* \* \*

(i) The Director and Deputy Director, Office of Drug Standards, CDER.

(ii) The Director and Deputy Director, Division of Generic Drugs, Office of Drug Standards, CDER.

(2)(i) \* \* \*

(ii) The Director and Deputy Director, Office of Biological Product Review, CDER.

(d) \* \* \*

(1) The supervisory chemists in the divisions in the Office of Drug Evaluation I, CDER.

(2) The supervisory chemists in the divisions in the Office of Drug Evaluation II, CDER.

32. Section 5.82 is revised to read as follows:

**§ 5.82 Issuance of notices relating to proposals to refuse approval or to withdraw approval of new drug applications and their supplements.**

(a) The Director and Deputy Director, Center for Drug Evaluation and Research, are authorized to issue notices of an opportunity for a hearing on proposals to refuse approval or to withdraw approval of new drug applications and abbreviated new drug applications and supplements thereto on drugs for human use, except for those drugs listed in § 314.440(b) of this chapter, that have been submitted under section 505 of the Federal Food, Drug, and Cosmetic Act and Subpart B of Part 314 of this chapter and to issue notices refusing approval or withdrawing approval when opportunity for hearing has been waived.

(b) The Director and Deputy Director, Center for Biologics Evaluation and Research, for those drugs listed in § 314.440(b) of this chapter, are authorized to issue notices of an opportunity for a hearing on proposals to refuse approval or to withdraw approval of new drug applications and abbreviated new drug applications and supplements thereto on drugs for human use that have been submitted under section 505 of the Federal Food, Drug, and Cosmetic Act and Subpart B of Part 314 of this chapter and to issue notices refusing approval or withdrawing approval when opportunity for hearing has been waived.

33. Section 5.94 is amended by revising paragraphs (a) and (b), and by removing paragraph (c) to read as follows:



**§ 5.94 Extensions or stays of effective dates for compliance with certain labeling requirements for human prescription drugs.**

(a) For drugs assigned to their organizations:

(1) The Director and Deputy Director, Center for Biologics Evaluation and Research (CBER).

(2) The Director and Deputy Director, Office of Biological Product Review, CBER.

(3) The Directors and Deputy Directors of the divisions in the Office of Biological Product Review, CBER.

(b) For drugs assigned to their organizations:

(1) The Director and Deputy Director, Center for Drug Evaluation and Research (CDER).

(2) The Directors and Deputy Directors of the Office of Drug Evaluation I and Drug Evaluation II, CDER.

(3) The Directors and Deputy Directors of the divisions in the Office of Drug Evaluation I and Drug Evaluation II, CDER.

Dated: February 21, 1989.

John M. Taylor,  
Associate Commissioner for Regulatory Affairs.

[FR Doc. 89-4516 Filed 2-27-89; 8:45 am]  
BILLING CODE 4150-01-M

**21 CFR Part 357**

[Docket No. 87N-0181]

**Cholecystokinetic Drug Products for Over-the-Counter Human Use; Amendment of Final Monograph**

**AGENCY:** Food and Drug Administration.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is issuing a final rule that amends the final monograph for over-the-counter (OTC) cholecystokinetic drug products to include the ingredient hydrogenated soybean oil. FDA is issuing this amendment of the final monograph after considering public comments on the agency's proposed regulation and all new data and information on OTC cholecystokinetic drug products that have come to the agency's attention. This amendment of the final monograph is part of the ongoing review of OTC drug products conducted by FDA.

**EFFECTIVE DATE:** February 28, 1990.

**FOR FURTHER INFORMATION CONTACT:** William E. Gilbertson, Center for Drug Evaluation and Research (HFD-210), Food and Drug Administration, 5600

Fishers Lane, Rockville, MD 20857, 301-295-8000.

**SUPPLEMENTARY INFORMATION:** In the Federal Register of June 10, 1983 (48 FR 27004), FDA issued a final monograph for OTC cholecystokinetic drug products (21 CFR Part 357, Subpart C). The only active ingredient included in the monograph was a 50-percent aqueous emulsion of corn oil.

On March 16, 1984, FDA received a citizen petition (Docket No. 79N-0368/CP) requesting that the final monograph for OTC cholecystokinetic drug products be amended to include a powder dosage form containing hydrogenated soybean oil and lecithin. The citizen petition was supplemented by data contained in letters dated January 14, 1985, November 14, 1985, June 1, 1987, and January 13, 1988. These letters are on file in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-82, 5600 Fishers Lane, Rockville, MD 20857, under Docket No. 79N-0368 as LET004, LET006, LET009, and LET011, respectively.

After reviewing the citizen petition and the supplemental data, the agency concluded that there was sufficient evidence to generally recognize hydrogenated soybean oil as safe and effective and not misbranded for use as an OTC cholecystokinetic drug product. The agency's proposed regulation, in the form of a proposed amendment of the final monograph for OTC cholecystokinetic drug products, was published in the Federal Register of August 15, 1988 (53 FR 30786). In that document, the agency proposed to include hydrogenated soybean oil in the final monograph for OTC cholecystokinetic drug products. Interested persons were invited to file by October 14, 1988, written comments or objections before the Commissioner of Food and Drugs regarding the proposal.

In response to the proposed rule, one manufacturer submitted a comment calling the agency's attention to an error in the proposal, i.e., at 53 FR 30786 and 30787 hydrogenated soybean oil was described incorrectly as "partially hydrolyzed" rather than "partially hydrogenated." The agency notes this error, and it has been corrected in this final rule. A copy of the comment is on public display in the Dockets Management Branch (address above). Final agency action occurs with the publication of this final rule amending the monograph for OTC cholecystokinetic drug products.

As discussed in the proposal (53 FR 30786), the agency advised that any final rule resulting from the proposal would

be effective 12 months after its date of publication in the Federal Register. Therefore, on or after February 28, 1990, any OTC drug product that is not in compliance may not be initially introduced or initially delivered for introduction into interstate commerce unless it is the subject of an approved application. Further, any OTC drug product subject to the rule that is repackaged or relabeled after the effective date of the rule must be in compliance with the rule regardless of the date that the product was initially introduced or initially delivered for introduction into interstate commerce. Manufacturers are encouraged to comply voluntarily with the rule at the earliest possible date.

No comments were received in response to the agency's request for specific comment on the economic impact of this rulemaking (53 FR 30786). The agency has examined the economic consequences of this final rule in conjunction with other rules resulting from the OTC drug review. In a notice published in the Federal Register of February 8, 1983 (48 FR 5806), the agency announced the availability of an assessment of these economic impacts. The assessment determined that the combined impacts of all the rules resulting from the OTC drug review do not constitute a major rule according to the criteria established by Executive Order 12291. The agency therefore concludes that no one of these rules, including this final rule for OTC cholecystokinetic drug products, is a major rule.

The economic assessment also concluded that the overall OTC drug review was not likely to have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (Pub. L. 96-354). That assessment included a discretionary Regulatory Flexibility Analysis in the event that an individual rule might impose an unusual or disproportionate impact on small entities. However, this particular rulemaking for OTC cholecystokinetic drug products is not expected to pose such an impact on small businesses. Therefore, the agency certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact, and the evidence



supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday. This action was considered under FDA's final rule implementing the National Environmental Policy Act (21 CFR Part 25).

#### List of Subjects in 21 CFR Part 357

Cholecystokinetic drug products, Labeling, Over-the-counter drugs, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and the Administrative Procedure Act, Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations is amended in Part 357 as follows:

#### PART 357—MISCELLANEOUS INTERNAL DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

1. The authority citation for 21 CFR Part 357 continues to read as follows:

Authority: Secs. 201(p), 502, 505, 701, 52 Stat. 1041-1042 as amended, 1050-1053 as amended, 1055-1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371); 5 U.S.C. 553, 21 CFR 5.10 and 5.11.

2. Section 357.210 is revised to read as follows:

#### § 357.210 Cholecystokinetic active ingredients.

The active ingredient of the product consists of any of the following when used within the specified concentration and dosage form established for each ingredient:

(a) 50-percent aqueous emulsion of corn oil.

(b) Hydrogenated soybean oil in a suitable, water-dispersible powder. The hydrogenated soybean oil is food-grade, partially hydrogenated with a melting point of 41 to 43.5 °C, an iodine value of 65 to 69, and a fatty acid composition as follows:

Fatty acid	Percent composition
Myristic acid.....	0.1
Palmitic acid.....	10.0
Palmitoleic acid.....	0.1
Stearic acid.....	13.5
Oleic acid.....	72.0
Linoleic acid.....	3.8
Linolenic acid.....	0.1
Arachidic acid.....	0.5
Behenic acid.....	0.2

3. Section 357.250 is amended by revising paragraphs (d)(2) and (3) to read as follows:

#### § 357.250 Labeling of cholecystokinetic drug products.

(d) \* \* \*

(2) For products containing 50-percent aqueous emulsion of corn oil.

(i) "Shake well before using."

(ii) Oral dosage is 60 milliliters 20 minutes before diagnostic gallbladder x-ray or as directed by a doctor.

(3) For products containing hydrogenated soybean oil. Oral dosage is 12.4 grams in a suitable, water-dispersible powder in 2 to 3 ounces of water. Stir briskly to prepare a suspension before using. Drink 20 minutes before diagnostic gallbladder x-ray or as directed by a doctor.

4. Section 357.280 is revised to read as follows:

#### § 357.280 Professional labeling.

The labeling provided to health professionals (but not to the general public) may contain the following information for ingredients identified in § 357.210: *Indication*. "For visualization of biliary ducts during cholecystography."

Dated: December 23, 1989.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 89-4613 Filed 2-27-89; 8:45 am]

BILLING CODE 4160-01-M

#### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

##### Office of the Secretary

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

Office of the Assistant Secretary for Community Planning and Development

Office of the Assistant Secretary for Public and Indian Housing

24 CFR Parts 15, 24, 203, 234, 510, 511, 570, 885, 904, 941, and 2002

[Docket No. N-89-1945]

#### Announcement of Effective Dates

**AGENCY:** Office of the Secretary; Office of the Assistant Secretary for Housing—Federal Housing Commissioner; Office of the Assistant Secretary for Community Planning and Development; Office of the Assistant Secretary for Public and Indian Housing; HUD.

**ACTION:** Notice of announcement of effective dates for certain recent final rules.

**SUMMARY:** Section 7(o)(3) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(o)(3), requires HUD to wait thirty calendar days of continuous session of Congress, after publication, before it makes a published rule effective. Thirty calendar days of continuous session of Congress have now expired in the present Congress since these rules were published. This notice announces the effective dates for certain recently published final rules. For an explanation of subject matter on the rules, see "SUPPLEMENTARY INFORMATION".

**DATES:** For effective dates, see "SUPPLEMENTARY INFORMATION."

**FOR FURTHER INFORMATION CONTACT:** Grady J. Norris, Assistant General Counsel for Regulations, Department of Housing and Urban Development, Room 10276, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 755-7055. (This is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** The effective date provision of each of the published rules affected by this Notice stated that the rule would become effective upon expiration of the first period of 30 calendar days of continuous session of Congress after publication, and announced that future notice of the rule's effectiveness would be published in the *Federal Register*. Thirty calendar days of continuous session of Congress will have expired in the present Congress before March 3, 1989.

Accordingly, the purpose of this notice is to announce the effective dates for the rules listed below, as follows:

1. *24 CFR Parts 15 and 2002:* The Freedom of Information Reform Act of 1988; Fee Schedule and Fee Waiver Regulations, Final Rule published September 27, 1988 (53 FR 37546), Docket No. R-88-1348; FR-2362.

**DATE:** Effective Date: March 3, 1989.

2. *24 CFR Part 24:* Debarment Suspension and Limited Denial of Participation, Contractors and Participants, Final Rule published November 15, 1988 (53 FR 45903), Docket No. R-88-831; FR-1676.

**DATE:** Effective Date: March 3, 1989.

3. *24 CFR Parts 203 and 234:* Disclosure of Annual Rate Changes of Adjustable Rate Mortgages (ARMs) and Carryovers, Final Rule published January 4, 1989 (54 FR 110), Docket No. R-88-1427; FR-2542.

**DATE:** Effective Date: March 31, 1989.

4. *24 CFR Part 510:* Section 312 Rehabilitation Loan Program; Removal of Risk Premium and Application Fee Provisions, Final Rule published



October 31, 1988 (53 FR 43865), Docket No. R-88-1414; FR-2553.

**DATE:** Effective Date: March 3, 1989.

5. **24 CFR Part 511:** Rental Rehabilitation Grants, Final Rule published December 6, 1988 (53 FR 49138), Docket No. R-88-1401; FR-2472.

**DATE:** Effective Date: March 3, 1989.

6. **24 CFR Part 570:** Urban Development Action Grant (UDAG) Application from Consortia of Small Cities, Final Rule published December 28, 1988 (53 FR 52414), Docket No. R-88-1374; FR-2381.

**DATE:** Effective Date: March 3, 1989.

7. **24 CFR Part 885:** Loans for Housing for the Elderly or Handicapped, Final Rule published November 9, 1988 (53 FR 45265), Docket No. R-88-1391; FR-2477.

**DATE:** Effective Date: March 3, 1989.

8. **24 CFR Parts 904 and 941:** Public Housing Development; Cost Containment, Final Rule published October 24, 1988 (53 FR 41597), Docket No. R-88-1299; FR-2191.

**DATE:** Effective Date: March 3, 1989.

Authority: Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: February 22, 1989.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 89-4577 Filed 2-27-89; 8:45 am]

BILLING CODE 4210-01-M

## DEPARTMENT OF DEFENSE

### Department of the Navy

#### 32 CFR Part 701

[SECNAV Instruction 5211.5C]

#### Availability of Department of the Navy Records and Publications of the Navy Documents Affecting the Public

**AGENCY:** Department of the Navy, DOD.

**ACTION:** Final rule.

**SUMMARY:** The Department of the Navy is publishing as a final rule a new specific exemption that will allow the Navy to exempt a new system of records from certain provisions of the Privacy Act of 1974. This new final specific exemption will preclude individuals from accessing the disclosure accounting provision of the Privacy Act as well as individual access to the record system.

**EFFECTIVE DATE:** February 28, 1989.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Gwen Aitken, Head, PA/FOIA Branch, Office of the Chief of Naval Operations (OP-09B30), Department of the Navy, The Pentagon, Washington, DC 20350.

**SUPPLEMENTARY INFORMATION:** On June 13, 1988, at 53 FR 22027 of the Federal Register, the Department of the Navy published a proposed exemption rule for a new system of records identified as N01754-3, entitled "Navy Child Development Services Program" under the provisions of 5 U.S.C. 552a(k)(2) of the Privacy Act of 1974. No comments were received. Therefore the Navy is adopting the proposed exemption rule as a final rule.

#### List of Subjects in 32 CFR Part 701

##### Privacy Act Exemptions.

For the reasons set forth in the preamble, 32 CFR Part 701 is amended as follows:

#### Subpart G—Privacy Act Exemptions

1. The authority citation continues to read as follows:

Authority: 5 U.S.C. 552a, 32 CFR Part 286a.

2. Add paragraph (b)(7) to § 701.119.

#### § 701.119 Exemptions for specific Navy record systems.

\* \* \* \* \*

(b) *Naval Military Personnel Command.*

\* \* \* \* \*

(7) *ID-N01754-3.*

**System Name.** Navy Child Development Services Program

**Exemption.** Portions of this system of records are exempt from the following subsections of Title 5 U.S.C. 552a (c)(3) and (d).

**Authority.** 5 U.S.C. 552a(k)(2).

**Reasons.** Exemption is needed in order to encourage persons having knowledge of abusive or neglectful acts toward children to report such information, and to protect such sources from embarrassment or recriminations, as well as to protect their right to privacy. It is essential that the identities of all individuals who furnish information under an express promise of confidentiality be protected. Additionally, granting individuals access to information relating to criminal and civil law enforcement, as well as the release of certain disclosure accountings, could interfere with ongoing investigations and the orderly administration of justice, in that it could result in the concealment, alteration, destruction, or fabrication of information; could hamper the identification of offenders and the disposition of charges; and could

jeopardize the safety and well being of parents and their children.

\* \* \* \* \*

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

February 21, 1989.

[FR Doc. 89-4606 Filed 2-27-89; 8:45 am]

BILLING CODE 3810-01-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 81

[FRL-3527-7; KY-050]

#### Designation of Areas for Air Quality Planning Purposes; Kentucky: Redefinition of Attainment Areas From Rest of State to County-by-County

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA today is changing the description of total suspended particulate, sulfur dioxide, carbon monoxide, and ozone attainment areas in the Commonwealth of Kentucky at the request of the Kentucky Natural Resources and Environmental Protection Cabinet. Attainment status designations included in 40 CFR 81.318 will now be listed on a county-by-county basis rather than under the generally inclusive term "Rest of State." This change is anticipated to make it easier for Kentucky to track increment consumption in connection with the prevention of significant deterioration of air quality.

**DATES:** This action will become effective on May 1, 1989, unless notice is received by March 30, 1989, that someone wishes to submit adverse or critical comments.

**ADDRESSES:** Written comments on this action should be addressed to Pamela Adams at the EPA Regional Office address listed below. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations:

Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365.

Kentucky Natural Resources and Environmental Protection Cabinet, Division for Air Quality, 18 Reilly Road, Frankfort Office Park, Frankfort, Kentucky 40601.

**FOR FURTHER INFORMATION CONTACT:** Pamela Adams, EPA Region IV Air Programs Branch, at the Atlanta address



above, telephone (404) 347-2864 or FTS 257-2864.

**SUPPLEMENTARY INFORMATION:** On June 24, 1987, the Kentucky Natural Resources and Environmental Protection Cabinet submitted a request for amendments to 40 CFR 81.318. These amendments would provide for a listing of attainment areas for total suspended particulates, sulfur dioxide, carbon monoxide, and ozone on a county-by-county basis rather than under the generally inclusive term "Rest of State." Similar amendments were made to Kentucky regulation 401 KAR 51:010 by adding section 1(3) as follows: "Wherever the air quality status in Appendices A through E of this regulation has been described by the generally inclusive term Rest of State, that portion of the State so identified shall be deemed to be designated on a county-by-county basis." A public hearing was held on April 1, 1982, to receive comments on these amendments to regulation 401 KAR 51:010. The regulation, as amended, became State-effective on September 22, 1982.

On January 21, 1982, EPA published a Federal Register notice (47 FR 3011) proposing to unilaterally interpret all "Rest of State" descriptions in 40 CFR Part 81 as being on a county-by-county basis. Although this proposal has not been finalized, Kentucky is accomplishing the same redefinition of the "Rest of State" descriptions as proposed in 47 FR 3011 by the amendments incorporated in this notice.

This redefinition of attainment areas will make it easier for Kentucky to track increment consumption in connection with the prevention of significant deterioration of air quality. Prior to this redefinition, the first permit application filed within the "Rest of State" could trigger a baseline air quality determination for the entire area. Listing attainment areas on a county-by-county basis in 40 CFR 81.318 will allow baseline dates to be triggered separately for individual counties and will therefore not restrict growth unnecessarily.

Since this notice simply redefines attainment areas on a county-by-county basis, no areas are being redesignated by this action. With respect to ozone, EPA sent a State Implementation Plan (SIP) call letter to the Governor of Kentucky on May 26, 1988. This letter indicated that the Kentucky SIP is deficient since several areas showed violations of the ozone National Ambient Air Quality Standards (NAAQS). These areas include the following: Boyd, Jefferson, Boone, Campbell, Kenton, and Fayette Counties. An attachment to the May 26, 1988, letter indicates that the planning areas for these counties will be expanded to include the entire Metropolitan Statistical Area (MSA). The MSA's for these areas include the following counties: Carter, Greenup, Bullitt, Oldham, Floyd, Clark, Bourbon, Jessamine, Scott, and Woodford. Due to a proposal published on June 6, 1988 (53 FR 20722), the counties previously listed in the MSA may be redesignated to nonattainment in the future. Should EPA or the Commonwealth of Kentucky ultimately revise the status of any Kentucky counties to nonattainment, Kentucky will need to revise the SIP accordingly within nine (9) months of such action.

EPA finds Kentucky's request for the amendments herein to be consistent with the provisions of Section 107 of the Clean Air Act.

#### Final Action

EPA is today redefining the description of total suspended particulate, sulfur dioxide, carbon monoxide, and ozone attainment areas for the Commonwealth of Kentucky from "Rest of State" to a county-by-county listing in 40 CFR 81.318. This amendment is being approved for prevention of significant deterioration of air quality purposes.

Since this redefinition imposes no new regulatory requirements, and no adverse comments are anticipated, this action is being done under direct-to-final rulemaking procedures. The public

should be advised that this action will be effective 60 days from the date of this Federal Register notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under 5 U.S.C. section 605(b), I certify that this action will not have a significant economic impact on a substantial number of small entities (see 46 FR 8709).

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 1, 1989. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Date: February 17, 1989.

William K. Reilly,  
Administrator.

Part 81 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

#### PART 81—[AMENDED]

##### Subpart C—Section 107 Attainment Status Designations

1. The authority citation for Part 81 continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

2. In § 81.318 the attainment status designation tables for TSP, SO<sub>2</sub>, CO, and O<sub>3</sub> are revised to read as follows:

#### § 81.318 Kentucky.

#### KENTUCKY—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Adair County.....				X
Allen County.....				X
Anderson County.....				X
Ballard County.....				X
Barren County.....				X
Bath County.....				X
Bell County.....	X			
Boone County.....				X
Bourbon County.....				X
Boyd County.....	X			



## KENTUCKY—TSP—Continued

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Bolton County				X
Bracken County				X
Breathitt County				X
Breckinridge County				X
That portion of Bullitt County in Shepherdsville	X			X
Rest of Bullitt County				X
Bulter County				X
Caldwell County				X
Calloway County				X
That portion of Campbell County in Newport	X			X
Rest of Campbell County				X
Carlisle County				X
Carroll County				X
Carter County				X
Casey County				X
Christian County				X
Clark County				X
Clay County				X
Clinton County				X
Crittenden County				X
Cumberland County				X
That portion of Daviess County in Owensboro	X			X
Rest of Daviess County				X
Edmonson County				X
Elliott County				X
Estill County				X
Fayette County				X
Fleming County				X
Floyd County				X
Franklin County				X
Fulton County				X
Gallatin County				X
Garrard County				X
Grant County				X
Graves County				X
Grayson County				X
Green County				X
Greenup County				X
Hancock County				X
Hardin County				X
Harlan County				X
Harrison County				X
Hart County D				X
That portion of Henderson County in Henderson	X			X
Rest of Henderson County				X
Henry County				X
Hickman County				X
Hopkins County				X
Jackson County				X
Jefferson County	X			X
Jessamine County				X
Johnson County				X
Kenton County				X
Knott County				X
Knox County				X
LaRue County				X
Laurel County				X
That portion of Lawrence County in Louisa	X			X
Rest of Lawrence County				X
Lee County				X
Leslie County				X
Letcher County				X
Lewis County				X
Lincoln County				X
Livingston County				X
Logan County				X
Lyon County				X
McCracken County				X
McCreary County	X			X
McLean County				X
That portion of Madison County in Richmond	X			X
Rest of Madison County				X
Magoffin County				X
Marion County				X
Marshall County				X
Martin County				X
Mason County				X
Meade County				X
Menifee County				X



## KENTUCKY—TSP—Continued

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Mercer County.....				X
Metcalfe County.....				X
Monroe County.....				X
Montgomery County.....				X
Morgan County.....				X
Muhlenberg County.....		X		
Nelson County.....				X
Nicholas County.....				X
Ohio County.....				X
Oldham County.....				X
Owen County.....				X
Owsley County.....				X
Pendleton County.....				X
That portion of Perry County in Hazard.....	X			
Rest of Perry County.....				X
That portion of Pike County in Pikeville.....	X			
Rest of Pike County.....				X
Powell County.....				X
Pulaski County.....				X
Robertson County.....				X
Rockcastle County.....				X
Rowan County.....				X
Russell County.....				X
Scott County.....				X
Shelby County.....				X
Simpson County.....				X
Spencer County.....				X
Taylor County.....				X
Todd County.....				X
Trigg County.....				X
Trimble County.....				X
Union County.....				X
Warren County.....				X
Washington County.....				X
Wayne County.....				X
Webster County.....				X
That portion of Whitley County in Corbin.....	X			
Rest of Whitley County.....				X
Wolfe County.....				X
Woodford County.....				X

KENTUCKY—SO<sub>2</sub>

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Adair County.....				X
Allen County.....				X
Anderson County.....				X
Ballard County.....				X
Barren County.....				X
Bath County.....				X
Bell County.....				X
Boone County.....				X
Bourbon County.....				X
That portion of Boyd County south of UTM northing line 4251 km... X				
Rest of Boyd County.....				X
Boyle County.....				X
Bracken County.....				X
Breathitt County.....				X
Breckinridge County.....				X
Bullitt County.....				X
Butler County.....				X
Caldwell County.....				X
Calloway County.....				X
Campbell County.....				X
Carlisle County.....				X
Carroll County.....				X
Carter County.....				X
Casey County.....				X
Christian County.....				X
Clark County.....				X
Clay County.....				X
Clinton County.....				X
Crittenden County.....				X
Cumberland County.....				X
Davies County.....				X



KENTUCKY—SO<sub>2</sub>—Continued

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Edmonson County				X
Elliott County				X
Estill County				X
Fayette County				X
Fleming County				X
Floyd County				X
Franklin County				X
Fulton County				X
Gallatin County				X
Garrard County				X
Grant County				X
Graves County				X
Grayson County				X
Green County				X
Greenup County				X
Hancock County				X
Hardin County				X
Harlan County				X
Harrison County				X
Hart County				X
Henderson County				X
Henry County				X
Hickman County				X
Hopkins County				X
Jackson County				X
Jefferson County				X
Jessamine County				X
Johnson County				X
Kenton County				X
Knott County				X
Knox County				X
LaRue County				X
Laurel County				X
Lawrence County				X
Lee County				X
Leslie County				X
Letcher County				X
Lewis County				X
Lincoln County				X
Livingston County				X
Logan County				X
Lyon County				X
McCracken County				X
McCreary County				X
McLean County				X
Madison County				X
Magoffin County				X
Marion County				X
Marshall County				X
Martin County				X
Mason County				X
Meade County				X
Menifee County				X
Mercer County				X
Metcalfe County				X
Monroe County				X
Montgomery County				X
Morgan County				X
Muhlenberg County		X		
Nelson County				X
Nicholas County				X
Ohio County				X
Oldham County				X
Owen County				X
Owsley County				X
Pendleton County				X
Perry County				X
Pike County				X
Powell County				X
Pulaski County				X
Robertson County				X
Rockcastle County				X
Rowan County				X
Russell County				X
Scott County				X
Shelby County				X
Simpson County				X
Spencer County				X
Taylor County				X



KENTUCKY—SO<sub>2</sub>—Continued

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Todd County.....				X
Trigg County.....				X
Trimble County.....				X
Union County.....				X
Warren County.....				X
Washington County.....				X
Wayne County.....				X
Webster County.....				X
Whitley County.....				X
Wolfe County.....				X
Woodford County.....				X

KENTUCKY—O<sub>3</sub>

Designated area	Does not meet primary standards	Cannot be classified or better than national standards <sup>1</sup>
Adair County.....		X
Allen County.....		X
Anderson County.....		X
Ballard County.....		X
Barren County.....		X
Bath County.....		X
Bell County.....		X
Boone County.....	X	
Bourbon County.....		X
Boyd County.....	X	
Boyle County.....		X
Bracken County.....		X
Breathitt County.....		X
Breckinridge County.....		X
Bullitt County.....		X
Butler County.....		X
Caldwell County.....		X
Calloway County.....		X
Campbell County.....	X	
Carlisle County.....		X
Carroll County.....		X
Carter County.....		X
Casey County.....		X
Christian County.....		X
Clark County.....		X
Clay County.....		X
Clinton County.....		X
Crittenden County.....		X
Cumberland County.....		X
Daviess County.....		X
Edmonson County.....		X
Elliott County.....		X
Estill County.....		X
Fayette County.....		X
Fleming County.....		X
Floyd County.....		X
Franklin County.....		X
Fulton County.....		X
Gallatin County.....		X
Garrard County.....		X
Grant County.....		X
Graves County.....		X
Grayson County.....		X
Green County.....		X
Greenup County.....		X
Hancock County.....		X
Hardin County.....		X
Harlan County.....		X
Harrison County.....		X
Hart County.....		X
Henderson County.....		X
Henry County.....		X
Hickman County.....		X
Hopkins County.....		X
Jackson County.....		X
Jefferson County.....	X	

KENTUCKY—O<sub>3</sub>—Continued

Designated area	Does not meet primary standards	Cannot be classified or better than national standards <sup>1</sup>
Jessamine County.....		X
Johnson County.....		X
Kenton County.....	X	
Knott County.....		X
Knox County.....		X
LaRue County.....		X
Laurel County.....		X
Lawrence County.....		X
Lee County.....		X
Leslie County.....		X
Letcher County.....		X
Lewis County.....		X
Lincoln County.....		X
Livingston County.....		X
Logan County.....		X
Lyon County.....		X
McCracken County.....		X
McCreary County.....		X
McLean County.....		X
Madison County.....		X
Magoffin County.....		X
Marion County.....		X
Marshall County.....		X
Martin County.....		X
Mason County.....		X
Meade County.....		X
Menifee County.....		X
Mercer County.....		X
Metcalfe County.....		X
Monroe County.....		X
Montgomery County.....		X
Morgan County.....		X
Muhlenberg County.....		X
Nelson County.....		X
Nicholas County.....		X
Ohio County.....		X
Oldham County.....		X
Owen County.....		X
Owsley County.....		X
Pendleton County.....		X
Perry County.....		X
Pike County.....		X
Powell County.....		X
Pulaski County.....		X
Robertson County.....		X
Rockcastle County.....		X
Rowan County.....		X
Russell County.....		X
Scott County.....		X
Shelby County.....		X
Simpson County.....		X
Spencer County.....		X
Taylor County.....		X
Todd County.....		X
Trigg County.....		X
Trimble County.....		X

KENTUCKY—O<sub>3</sub>—Continued

Designated area	Does not meet primary standards	Cannot be classified or better than national standards <sup>1</sup>
Union County.....		X
Warren County.....		X
Washington County.....		X
Wayne County.....		X
Webster County.....		X
Whitley County.....		X
Wolfe County.....		X
Woodford County.....		X

<sup>1</sup> Designations of "Cannot be classified or better than national standards" were reaffirmed on July 23, 1982.

## KENTUCKY—CO

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Adair County.....		X
Allen County.....		X
Anderson County.....		X
Ballard County.....		X
Barren County.....		X
Bath County.....		X
Bell County.....		X
Boone County.....		X
Bourbon County.....		X
Boyd County.....		X
Boyle County.....		X
Bracken County.....		X
Breathitt County.....		X
Breckinridge County.....		X
Bullitt County.....		X
Butler County.....		X
Caldwell County.....		X
Calloway County.....		X
Campbell County.....		X
Carlisle County.....		X
Carroll County.....		X
Carter County.....		X
Casey County.....		X
Christian County.....		X
Clark County.....		X
Clay County.....		X
Clinton County.....		X
Crittenden County.....		X
Cumberland County.....		X
Daviess County.....		X
Edmonson County.....		X
Elliott County.....		X
Estill County.....		X
Fayette County.....		X
Fleming County.....		X



## KENTUCKY—CO—Continued

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Floyd County.....		X
Franklin County.....		X
Fulton County.....		X
Gallatin County.....		X
Garrard County.....		X
Grant County.....		X
Graves County.....		X
Grayson County.....		X
Green County.....		X
Greenup County.....		X
Hancock County.....		X
Hardin County.....		X
Harlan County.....		X
Harrison County.....		X
Hart County.....		X
Henderson County.....		X
Henry County.....		X
Hickman County.....		X
Hopkins County.....		X
Jackson County.....		X
Jefferson County.....	X	
Jessamine County.....		X
Johnson County.....		X
Kenton County.....		X
Knott County.....		X
Knox County.....		X
LaRue County.....		X
Laurel County.....		X
Lawrence County.....		X
Lee County.....		X
Leslie County.....		X
Letcher County.....		X
Lewis County.....		X
Lincoln County.....		X
Livingston County.....		X
Logan County.....		X
Lyon County.....		X
McCracken County.....		X
McCreary County.....		X
McLean County.....		X
Madison County.....		X
Magoffin County.....		X
Marion County.....		X
Marshall County.....		X
Martin County.....		X
Mason County.....		X
Meade County.....		X
Menifee County.....		X
Mercer County.....		X
Metcalfe County.....		X
Monroe County.....		X
Montgomery County.....		X
Morgan County.....		X
Muhlenberg County.....		X
Nelson County.....		X
Nicholas County.....		X
Ohio County.....		X
Oldham County.....		X
Owen County.....		X
Owsley County.....		X
Pendleton County.....		X
Perry County.....		X
Pike County.....		X
Powell County.....		X
Pulaski County.....		X
Robertson County.....		X
Rockcastle County.....		X
Rowan County.....		X
Russell County.....		X
Scott County.....		X
Shelby County.....		X
Simpson County.....		X
Spencer County.....		X
Taylor County.....		X
Todd County.....		X
Trigg County.....		X

## KENTUCKY—CO—Continued

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Trimble County.....		X
Union County.....		X
Warren County.....		X
Washington County.....		X
Wayne County.....		X
Webster County.....		X
Whitley County.....		X
Wolfe County.....		X
Woodford County.....		X

\* \* \* \* \*

[FR Doc. 89-4297 Filed 2-27-89; 8:45 am]

BILLING CODE 6560-50-M

## DEPARTMENT OF THE INTERIOR

## Office of Hearings and Appeals

## 43 CFR Part 4

## Department Hearings and Appeals Procedures

AGENCY: Office of Hearings and Appeals, Interior.

ACTION: Final rule.

**SUMMARY:** This rulemaking revises two regulations concerning the probate of the estates of Indians who died possessed of property in Indian trust or restricted status. The first amendment clarifies the kinds of evidence acceptable to establish death. The second amendment broadens the present regulation providing alternate devisees or legatees when an individual named in an Indian will predeceases the testator.

**EFFECTIVE DATE:** This rule is effective March 30, 1989.

**FOR FURTHER INFORMATION CONTACT:** Parlen McKenna, Chief Administrative Law Judge, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Telephone: (703) 235-3800 (not toll free).

**SUPPLEMENTARY INFORMATION:** On June 21, 1988, the Office of Hearings and Appeals published proposed amendments of the Department's regulations 43 CFR 4.210(b)(1) and 4.261 (53 FR 23291), pertaining to probate of the estates of Indians who died possessed of property in Indian trust or restricted status. The proposed amendment to § 4.210(b)(1) was to clarify what evidence of death other than a death certificate is sufficient to show death. Accordingly, the existing requirement for submission of the death

certificate or its equivalent was proposed to be revised to provide for submission of a copy of the death certificate if one exists and, if there is no death certificate, to provide for submission of another form of official written evidence of the death such as a burial or transportation of remains permit, coroner's report, or church registration of death. The proposed amendment provided also for secondary forms of evidence of death, such as an affidavit from someone with personal knowledge concerning the fact of death or an obituary notice from a newspaper, in the absence of any official proof or evidence of death. The proposed amendment of § 4.261 was to broaden the anti-lapse provisions of the existing regulation providing alternate devisees or legatees when an individual named in an Indian will predeceases the testator. Accordingly, the existing regulation, applicable only when a named devisee or legatee who predeceases the testator is a member of the testator's immediate family, was proposed to be revised to cover any lineal descendant of the testator's grandparents, thus including collateral relatives such as aunts, uncles, and close cousins. The provision in this regulation that relationship by adoption shall be equivalent to relationship by blood remains unchanged.

Interested persons were given until July 21, 1988, to submit comments on the proposed amendments of these rules. No comments were received. The amendments are, therefore, adopted as proposed, with an editorial change in regulation § 4.210(b)(1) to refer to an obituary or death notice rather than to an obituary notice.

## Determination of Effects

The Department of the Interior has determined that these amendments are not major rules under E.O. 12291 and certifies that they will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This determination is based on the fact that the amendments concern only details regarding Departmental probate of the trust or restricted estates of deceased Indians.

## National Environmental Policy Act

The Department of the Interior has determined that the amendments do not constitute major Federal actions significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321-4347).



**Paperwork Reduction Act**

The amendments do not contain information collection requirements which require approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

These rules were written by Paul T. Baird, Director, Office of Hearings and Appeals.

**List of Subjects in 43 CFR Part 4**

Administrative practice and procedure; Indians—lands.

Dated: January 3, 1989.

Earl E. Gjeldre,

*Under Secretary.*

43 CFR Part 4, Subpart D, is amended as follows:

**PART 4—[AMENDED]**

1. The authority citation for Part 4, Subpart D, continues to read as follows:

**Authority:** Secs. 1, 2, 36 Stat. 855, as amended, 856, as amended, sec. 1, 38 Stat. 586, 42 Stat. 1185, as amended, secs. 1, 2, 56 Stat. 1021, 1022; R.S. 463, 465; 5 U.S.C. 301; 25 U.S.C. secs. 2, 9, 372, 373, 374, 373a, 373b.

2. Section 4.210(b)(1) is revised to read:

**§ 4.210 Commencement of probate.**

\* \* \* \* \*

(b) \* \* \*

(1) A copy of the death certificate if one exists; if there is no death certificate then another form of official written evidence of the death such as a burial or transportation of remains permit, coroner's report, or church registration of death. Secondary forms of evidence of death such as an affidavit from someone with personal knowledge concerning the fact of death or an obituary or death notice from a newspaper may be used only in the absence of any official proof or evidence of death.

\* \* \* \* \*

3. Section 4.261 is revised to read:

**§ 4.261 Anti-lapse provisions.**

When an Indian testator devises or bequeaths trust property to any of his grandparents or to the lineal descendant of a grandparent, and the devisee or legatee dies before the testator leaving lineal descendants, such descendants shall take the right, title, or interest so given by the will per stirpes.

Relationship by adoption shall be equivalent to relationship by blood.

[FR Doc. 89-4467 Filed 2-27-89; 8:45 am]

BILLING CODE 4310-79-M

**FEDERAL EMERGENCY MANAGEMENT AGENCY****44 CFR Part 64**

[Docket No. FEMA 6826]

**Suspension of Community Eligibility**

**AGENCY:** Federal Emergency Management Agency, FEMA.

**ACTION:** Final rule.

**SUMMARY:** This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If FEMA receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the Federal Register.

**EFFECTIVE DATES:** The third date ("Susp.") listed in the third column.

**FOR FURTHER INFORMATION CONTACT:** Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration (202) 646-2717, Federal Center Plaza, 500 C Street SW, Room 416, Washington, DC 20472.

**SUPPLEMENTARY INFORMATION:** The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022), prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate floodplain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 *et seq.*). Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date.

These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the Federal Register. In the interim, if you wish to determine if a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas. (Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Administrator finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified. Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

Pursuant to the provision of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, FEMA, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in Section 2 of the Flood Disaster Protection Act of 1973, the establishment of local floodplain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the



community's decision not to (adopt) (enforce) adequate floodplain management, thus placing itself in noncompliance of the Federal standards required for community participation. In each entry, a complete chronology of effective dates appears for each listed community.

# List of Subjects in 44 CFR Part 64

Flood insurance—floodplains.

## PART 64—[AMENDED]

1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 et. seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

2. Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

## § 64.6 List of eligible communities.

State and location	Community number	Effective dates of authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
<b>Pennsylvania:</b>				
Greensboro, borough of, Greens County.....	420477	Dec. 2, 1975, Emerg.; Mar. 2, 1989, Reg.; Mar. 2, 1989, Susp.	Mar. 2, 1989	Mar. 2, 1989.
Marion, township of, Beaver County.....	422249	Aug. 6, 1974, Emerg.; Mar. 2, 1989, Reg.; Mar. 2, 1989, Susp.	.....do.....	Do.
Miller, township of, Huntingdon County.....	421695	Feb. 17, 1977, Emerg.; Mar. 2, 1989, Reg.; Mar. 2, 1989, Susp.	.....do.....	Do.
Minersville, borough of, Schuylkill County.....	420778	Apr. 4, 1974, Emerg.; Mar. 2, 1989, Reg.; Mar. 2, 1989, Susp.	.....do.....	Do.
New Sewickley, township of, Beaver County.....	422323	Dec. 2, 1975, Emerg.; Mar. 2, 1989, Reg.; Mar. 2, 1989, Susp.	.....do.....	Do.
Oneida, township of, Huntingdon County.....	421697	Mar. 14, 1975, Emerg.; Mar. 2, 1989, Reg.; Mar. 2, 1989, Susp.	.....do.....	Do.
Orwigsburg, borough of, Schuylkill County.....	421204	May 15, 1974, Emerg.; Mar. 2, 1989, Reg.; Mar. 2, 1989, Susp.	.....do.....	Do.
Spruce Creek, township of, Huntingdon County.....	422621	Feb. 18, 1975 Emerg.; Mar. 2, 1989, Reg.; Mar. 2, 1989, Susp.	.....do.....	Do.
Union, township of, Huntingdon County.....	421704	July 21, 1982, Emerg.; Mar. 21, 1989, Reg.; Mar. 21, 1989, Susp.	.....do.....	Do.
<b>Region IV</b>				
North Carolina: Hoke County, Unincorporated Areas	370397	June 4, 1979, Emerg.; Mar. 2, 1989, Reg.; Mar. 2, 1989, Susp.	.....do.....	Do.
South Carolina: Lake View, town of, Dillon County	450066	July 29, 1975, Emerg.; Mar. 2, 1989, Reg.; Mar. 2, 1989, Susp.	.....do.....	Do.
<b>Region V</b>				
Indiana: Johnson County, Unincorporated Areas	180111	July 24, 1975, Emerg.; Mar. 2, 1989, Reg.; Mar. 2, 1989, Susp.	.....do.....	Do.
Michigan: Nottawa, township of, St. Joseph County	260514	Jan. 24, 1978, Emerg.; Mar. 2, 1989, Reg.; Mar. 2, 1989, Susp.	.....do.....	Do.
Ohio: Shelby, city of, Richland County	390479	July 30, 1975, Emerg.; Mar. 2, 1989, Reg.; Mar. 2, 1989, Susp.	.....do.....	Do.
<b>Region III</b>				
<b>Pennsylvania:</b>				
Clifford, township of, Susquehanna County.....	422077	Feb. 6, 1981, Emerg.; Mar. 16, 1989, Reg.; Mar. 16, 1989, Susp.	Mar. 16, 1989	Mar. 16, 1989.
Franklin, township of, Beaver County.....	421065	Jan. 15, 1975 Emerg.; Mar. 16, 1989, Reg.; Mar. 16, 1989, Susp.	.....do.....	Do.
Greenwood, township of, Columbia County.....	421551	July 28, 1975, Emerg.; Mar. 16, 1989, Reg.; Mar. 16, 1989, Susp.	.....do.....	Do.
West Virginia: Richmond County, Richmond County	510310	Jan. 20, 1975, Emerg.; Mar. 16, 1989, Reg.; Mar. 16, 1989, Susp.	.....do.....	Do.
Paden, City of, Tyler and Wetzel Counties.....	540196	May 2, 1975, Emerg.; Mar. 16, 1989, Reg.; Mar. 16, 1989, Susp.	.....do.....	Do.
Pennsylvania: Mill Creek, borough of, Huntingdon County	420488	Aug. 22, 1975, Emerg.; Mar. 2, 1989, Reg.; Mar. 16, 1989, Susp.	Mar. 2, 1989	Mar. 2, 1989.
<b>Region IV</b>				
South Carolina: Pawleys Island, town of, Georgetown County	450251	Feb. 26, 1971, Emerg.; Mar. 16, 1989, Reg.; Mar. 16, 1989, Susp.	Mar. 16, 1989	Mar. 16, 1989.
<b>Region VII</b>				
Iowa: Clayton, city of, Clayton County	190072	Feb. 24, 1975, Emerg.; Mar. 16, 1989, Reg.; Mar. 16, 1989, Susp.	.....do.....	Do.

Code for reading third column: Emerg.—Emergency, Reg.—Regular, Susp.—Suspension.



Issued: February 22, 1989.

Harold T. Duryee,  
Administrator, Federal Insurance  
Administration.

[FR Doc. 89-4572 Filed 2-27-89; 8:45 am]

BILLING CODE 6710-21-M

#### 44 CFR Part 64

[Docket No. FEMA 6825]

#### List of Communities Eligible for the Sale of Flood Insurance; Arkansas et al.

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

**SUMMARY:** This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities were required to adopt floodplain management measures compliant with the NFIP revised regulations that became effective on October 1, 1986. If the communities did not do so by the specified date, they would be suspended from participation in the NFIP. The communities are now in compliance. This rule withdraws the suspension. The communities' continued participation in the program authorizes the sale of flood insurance.

**EFFECTIVE DATE:** As shown in fifth column.

**ADDRESS:** Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the NFIP at: P.O. Box 457, Lanham, Maryland 20706. Phone: (800) 638-7418.

**FOR FURTHER INFORMATION CONTACT:** Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 646-2717, Federal Center Plaza, 500 C Street, Southwest, Room 416, Washington, DC 20472.

**SUPPLEMENTARY INFORMATION:** The NFIP enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding.

In addition, the Director of FEMA has identified the Special Flood Hazard Areas in these communities by publishing a Flood Insurance Rate Map. In the communities listed where a flood map has been published, section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the Special Flood Hazard Area shown on the map.

The Director finds that the delayed effective dates would be contrary to the

public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance."

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, to whom authority has been delegated by the Director, FEMA, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on these participating communities.

#### List of Subjects in 44 CFR Part 64

Flood insurance and floodplains.

#### PART 64—[AMENDED]

1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 et. seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

2. Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, the suspension for each listed community has been withdrawn. The entry reads as follows:

#### § 64.6 List of eligible communities.

State	Community name	County	Community number	Effective date	
Arkansas	Pea Ridge, city of	Benton	050361	January 18, 1989	Suspension withdrawn.
Louisiana	Simmesport, town of	Avoyelles	220025	do	
Oklahoma	Heavener, city of	LeFlore	400090	do	
Do	Meeker, town of	Lincoln	400404	do	
Texas	Alamo, city of	Hidalgo	480335	do	
Do	Austin, city of	Travis	480624	do	
Do	Cibola, city of	Guadalupe	480267	do	
Do	Unincorporated areas	Kerr	480419	do	
Do	Poth, city of	Wilson	480672	do	
Do	Woodbranch, village of	Montgomery	480694	do	
Oregon	Ashland, city of	Jackson	410090	February 2, 1989	Suspension withdrawn.
Do	Burns, city of	Harney Co.	410084	do	
Do	Carlton, city of	Yamhill	410251	do	
Do	Cascade Locks, city of	Hood River	410087	do	
Do	Chiloquin, city of	Klamath	410111	do	
Do	Coos Bay, city of	Coos	410044	do	
Do	Dayville, city of	Grant	410076	do	
Do	Detroit, city of	Marion	410157	do	
Do	Unincorporated areas	Douglas	410059	do	
Do	Dundee, city of	Yamhill	410253	do	
Do	Dunes City, city of	Lane	410262	do	
Do	Unincorporated areas	Grant	410074	do	
Do	Heppner, city of	Morrow	410175	do	
Do	Hines, city of	Harney	410085	do	
Do	Hood River, city of	Hood River	410088	do	
Do	Lakeside, city of	Coos	410278	do	
Do	Lakeview, city of	Lake	410118	February 2, 1989	Suspension withdrawn.
Do	Lexington, city of	Morrow	410178	do	
Do	Milwaukie, city of	Clackamas	410019	do	
Do	Monroe, city of	Benton	410010	do	
Do	Monument, city of	Grant	410079	do	
Do	Unincorporated areas	Morrow	410173	do	
Do	Mt. Angel, city of	Marion	410165	do	
Do	North Powder, city of	Union	410221	do	



State	Community name	County	Community number	Effective date
Do.....	Powers, city of.....	Coos.....	410049.....	do.....
Do.....	Sandy, city of.....	Clackamas.....	410023.....	do.....
Do.....	Shady Cove, city of.....	Jackson.....	410099.....	do.....
Do.....	Summerville, city of.....	Union.....	410222.....	do.....
Do.....	Sweet Home, city of.....	Linn.....	410148.....	do.....
Do.....	Union, city of.....	Union.....	410223.....	do.....
Do.....	Woodburn, city of.....	Marion.....	410172.....	do.....
Do.....	Unincorporated areas.....	Yamhill.....	410249.....	do.....

Harold T. Duryee,  
Administrator, Federal Insurance  
Administration.

Issued: February 22, 1989.  
[FR Doc. 89-4573 Filed 2-27-89; 8:45 am]  
BILLING CODE 6718-21-M

#### 44 CFR Part 65

##### Changes in Flood Elevation Determinations; Mississippi et al.

**AGENCY:** Federal Emergency  
Management Agency.

**ACTION:** Final rule.

**SUMMARY:** Modified base (100-year)  
flood elevations are finalized for the  
communities listed below.

These modified elevations will be  
used in calculating flood insurance  
premium rates for new buildings and  
their contents and for second layer  
coverage on existing buildings and their  
contents.

**DATES:** The effective dates for these  
modified base flood elevations are  
indicated on the following table and  
amend the Flood Insurance Rate Map(s)  
(FIRM) in effect for each listed  
community prior to this date.

**ADDRESSES:** The modified base flood  
elevations for each community are  
available for inspection at the office of  
the Chief Executive Officer of each  
community. The respective addresses  
are listed on the following table.

**FOR FURTHER INFORMATION CONTACT:**  
Mr. John L. Matticks, Chief, Risk Studies  
Division, Federal Insurance  
Administration, Federal Emergency  
Management Agency, Washington, DC  
20472, (202) 646-2767.

**SUPPLEMENTARY INFORMATION:** The  
Federal Emergency Management

Agency gives notice of the final  
determinations of modified flood  
elevations for each community listed.  
These modified elevations have been  
published in newspaper(s) of local  
circulation and ninety (90) days have  
elapsed since that publication. The  
Administrator, has resolved any appeals  
resulting from this notification.

Numerous changes made in the base  
(100-year) flood elevations on the FIRMs  
for each community make it  
administratively infeasible to publish in  
this notice all of the changes contained  
on the maps. However, this rule includes  
the address of the Chief Executive  
Officer of the community, where the  
modified base flood elevation  
determinations are available for  
inspection.

The modifications are made pursuant  
to section 206 of the Flood Disaster  
Protection Act of 1973 (Pub. L. 93-234)  
and are in accordance with the National  
Flood Insurance Act of 1968, as  
amended (Title XIII of the Housing and  
Urban Development Act of 1968, (Pub. L.  
90-448), 42 U.S.C. 4001-4128, and 44 CFR  
Part 65.

For rating purposes, the revised  
community number is shown and must  
be used for all new policies and  
renewals.

The modified base (100-year) flood  
elevations are the basis for the  
floodplain management measures that  
the community is required to either  
adopt or show evidence of being already  
in effect in order to qualify or to remain  
qualified for participation in the  
National Flood Insurance Program.

These modified elevations, together  
with the floodplain management  
measures required by 60.3 of the  
program regulations, are the minimum  
that are required. They should not be

construed to mean that the community  
must change any existing ordinances  
that are stringent in their floodplain  
management requirements. The  
community may at any time enact  
stricter requirements of its own, or  
pursuant to policies established by other  
Federal, State or regional entities.

These modified base flood elevations  
shall be used to calculate the  
appropriate flood insurance premium  
rates for new buildings and their  
contents and for second year layer  
coverage on existing buildings and their  
contents.

The changes in the base flood  
elevations are in accordance with 44  
CFR 65.4.

Pursuant to the provisions of 5 U.S.C.  
605(b), the Administrator, to whom  
authority has been delegated by the  
Director, Federal Emergency  
Management Agency, hereby certifies  
that this rule, if promulgated, will not  
have a significant economic impact on a  
substantial number of small entities.  
This rule provides routine legal notice of  
technical amendments made to  
designated special flood hazard areas  
on the basis of updated information and  
imposes no new requirements or  
regulations on participating  
communities.

#### List of Subjects in 44 CFR Part 65

Flood insurance, floodplains.

#### PART 65—[AMENDED]

The authority citation for Part 65  
continues to read as follows:

**Authority:** 42 U.S.C. 4001 et seq.,  
Reorganization Plan No. 3 of 1978, E.O. 12127.

#### § 65.4 [Amended]

65.4 is amended by adding in  
alphabetical sequence new entries to the  
table.

State and county	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Mississippi: DeSoto (Docket No. FEMA- 6940).	City of Southaven...	October 13, 1988..... October 20, 1988..... <i>DeSoto Times</i> .....	The Honorable Joseph Cates, Mayor, City of Southaven, P.O. Box 425, Southaven, Missis- sippi 38671.	October 3, 1988.	280331
Missouri: Jefferson (Docket No. FEMA- 6940).	City of Festus.....	October 13, 1988..... October 20, 1988..... <i>Daily News Democrat</i> .....	The Honorable Joseph Grohs, Jr., Mayor, City of Festus, City Hall, 711 West Main, Festus, Missouri 63029.	October 3, 1988.	290191



State and county	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Texas: Tarrant (FEMA Docket No. 6936).	City of Arlington.....	August 30, 1988..... September 6, 1988..... <i>The Arlington Daily News</i> .....	The Honorable Richard Greene, Mayor of the City of Arlington, P.O. Box 231, Arlington, Texas 76004-0231.	August 23, 1988.	485454 C

Harold T. Duryee,  
Administrator, Federal Insurance  
Administration.

Issued: February 21, 1989.

[FR Doc. 89-4569 Filed 2-27-89; 8:45 am]

BILLING CODE 6710-03-M

#### 44 CFR Part 67

#### Final Flood Elevation Determinations

**AGENCY:** Federal Emergency Management Agency.

**ACTION:** Final rule.

**SUMMARY:** Modified base (100-year) flood elevations are finalized for the communities listed below.

These modified elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program.

**EFFECTIVE DATE:** The date of issuance of the Flood Insurance Rate Map (FIRM) showing modified base flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below:

**ADDRESSES:** See table below:

**FOR FURTHER INFORMATION CONTACT:** Mr. John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2767.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency gives notice of the final determinations of flood elevations for each community listed. Proposed base flood elevations or proposed modified base flood elevations have been published in the Federal Register for each community listed.

This final rule is issued in accordance with Section 110 of Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR Part 67. An Opportunity for the community or individuals to appeal the proposed determination to or through the

community for a period of ninety (90) days has been provided.

The Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 USC 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies for reasons set out in the proposed rule that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, this rule is not a major rule under terms of Executive Order 12291, so no regulatory analyses have been proposed. It does not involve any collection of information for purposes of the Paperwork Reduction Act.

#### List of Subjects in 44 CFR Part 67

Flood Insurance, Floodplains.

#### PART 67—[AMENDED]

The authority citation for Part 67 continues to read as follows:

**Authority:** 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

Interested lessees and owners of real property and encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community.

The modified base flood elevations are finalized in the communities listed below. Elevations at selected locations in each community are shown. Any appeals of the proposed base flood elevations which were received have been resolved by the Agency.

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD). Modified
<b>ALABAMA</b>	
<b>Northport (city), Tuscaloosa County (FEMA Docket No. 6939)</b>	
Twomile Creek Diversion Channel:	
Confluence with Twomile Creek.....	*152
Divergence with Twomile Creek.....	*153
Twomile Creek Tributary No. 1:	
Just downstream of 9th Avenue.....	*163
Just downstream of U.S. Highway 69.....	*175
About 350 feet downstream of 20th Avenue.....	*187
<b>CALIFORNIA</b>	
<b>lone (city), Amador County (FEMA Docket No. 6939)</b>	
<b>Sutter Creek:</b>	
Approximately 20 feet upstream of the western corporate limits of the city.....	*270
Approximately 1,760 feet downstream of Preston Avenue.....	*290
Approximately 80 feet downstream of Preston Avenue.....	*298
Approximately 1,220 feet upstream of Preston Avenue.....	*312
<b>Sutter Creek Overflow:</b>	
Approximately 2,000 feet downstream of Depot Road.....	*278
At intersection of West Mariette Street and Depot Road.....	*288
At intersection of West Mariette Street and West Mill Street.....	*296
At point of divergence from Sutter Creek.....	*304
<b>Maps available for review at City Hall, 1 Main Street, Lone, California.</b>	
<b>GEORGIA</b>	
<b>Cobb County (Unincorporated Areas) (FEMA Docket No. 6939)</b>	
<b>Butler Creek:</b>	
About 2,270 feet upstream of Mack Dobbs Road.....	*971
About 0.99 mile upstream of Mack Dobbs Road..	*985
Just downstream of Pine Mountain Road.....	*989
<b>Maps available for inspection at the Cobb County Development Control Department, 47 Waddell Street, Marietta, Georgia.</b>	
<b>LaGrange (city), Troup County (FEMA Docket No. 6939)</b>	
<b>Dixie Creek:</b>	
About 2500 feet downstream of State Highway 219.....	*649
About 0.8 mile upstream of State Highway 219.....	*681
<b>Airport Branch 1:</b>	
Just upstream of Forrest Avenue.....	*685
Just upstream of Gordon Commercial Drive.....	*703
<b>Blue John Creek:</b>	
At confluence of Airport Branch 1.....	*642
About 700 feet downstream of Orchard Hill Road.....	*644
<b>Maps available for inspection at the City Hall, 200 Ridgely Avenue, LaGrange, Georgia.</b>	
<b>IOWA</b>	
<b>Mills County (Unincorporated Areas) (FEMA Docket No. 6939)</b>	
<b>Missouri River:</b>	
About 2.7 miles downstream of U.S. Route 34.....	*957
About 0.5 mile upstream of Burlington Northern railroad.....	*962
About 3.5 miles upstream of Burlington Northern railroad.....	*965
<b>Shallow Flooding (ponding from interior drainage):</b>	
About 1.5 miles upstream from State Route 370 along the Missouri River on the landward side of the levee.....	*963
About 0.4 mile on State Route 370 from the east bank of the Missouri River on the landward side of the levee.....	*962



Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD), Modified
About 2.5 miles downstream from State Route 370 along the Missouri River on the landward side of the levee.....	*959
Just west of the Interstate 29 interchange at Folsom Lake.....	*958
About 3.5 miles upstream from Burlington Northern railroad along the Missouri River on the landward side of the levee.....	*958
About 2.0 miles upstream from Burlington Northern railroad along the Missouri River on the landward side of the levee.....	*956
The intersection of U.S. Route 34 and Eaton Ditch.....	*953
<b>Maps available for inspection at the County Courthouse, Mills County, Glenwood, Iowa.</b>	
<b>MINNESOTA</b>	
<b>Breckenridge (city), Wilken County (FEMA Docket No. 6943)</b>	
<i>Red River of the North:</i>	
Just downstream of State Highway 210.....	*959
At confluence of Bois de Sioux River.....	*961
At confluence with Red River of the North.....	*961
9600 feet upstream of Burlington Northern railroad.....	*962
<i>Ottertail River:</i>	
At confluence with Red River of the North.....	*961
2000 feet upstream of C.S.A.H. No. 16.....	*961
<b>Maps available for inspection at the City Hall, 420 Nebraska Avenue, Breckenridge, Minnesota.</b>	
<b>Hanover (city), Wright and Hennepin Counties (FEMA Docket No. 6939)</b>	
<i>Crow River:</i>	
About 2.31 miles downstream of County Highway 123.....	*868
About 0.90 mile upstream of County Highway 123.....	*900
<b>Maps available for inspection at the City Hall, 11250 5th Street, N.E., Hanover, Minnesota.</b>	
<b>NORTH CAROLINA</b>	
<b>Cabarrus County (Unincorporated Areas) (FEMA Docket No. 6939)</b>	
<i>Rocky River:</i>	
At conference of Mallard Creek.....	*570
About 0.8 mile upstream of SR 1600.....	*850
<b>Maps available for inspection at the County Courthouse, 77 Union Street South, Concord, North Carolina.</b>	
<b>TENNESSEE</b>	
<b>Cleveland (city), Bradley County (FEMA Docket No. 6939)</b>	
<i>South Mouse Creek:</i>	
About 0.87 mile downstream of Mohawk Drive.....	*769
Just downstream of Kile Road.....	*852
Just upstream of Kile Road.....	*864
Just downstream of Norfolk Southern Railroad.....	*864
Just upstream of Norfolk Southern Railroad.....	*876
Just upstream of Norfolk Southern Railway Spur.....	*885
<b>Maps available for inspection at the City of Cleveland, Engineering Department, Cleveland, Tennessee.</b>	
<b>TEXAS</b>	
<b>Watauga (city), Tarrant County (FEMA Docket Nos. 6934 and 6925)</b>	
<i>Bunker Hill Creek:</i>	
Approximately 950 feet downstream of Starnes Road.....	*651
Approximately 700 feet upstream of Northpark Drive.....	*667
<i>Singing Hills Creek:</i>	
Approximately 1,320 feet upstream of Mackneal Trail.....	*591
Approximately 170 feet upstream of Watauga-Smithfield Road.....	*599

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD), Modified
<b>Maps available for inspection at 7101, Whitley Road, Watauga, Texas.</b>	
<b>UTAH</b>	
<b>Salt Lake County (Unincorporated Areas) (FEMA Docket No. 6943)</b>	
<i>Little Cottonwood Creek:</i>	
Approximately 4,360 feet above Little Cottonwood Creek Road.....	*4763
Approximately 4,780 feet above Little Cottonwood Creek Road.....	*4789
Approximately 5,760 feet above Little Cottonwood Creek Road.....	*4794
Approximately 6,740 feet above Little Cottonwood Creek Road.....	*4820
Approximately 7,700 feet above Little Cottonwood Creek Road.....	*4854
Approximately 9,060 feet above Little Cottonwood Creek Road.....	*4902
<b>Maps are available for inspection at the Flood Control and Highway Division, 2001 South State Street, #N3300, Salt Lake City, Utah 84190-4600.</b>	

**Harold T. Duryee,**  
*Administrator, Federal Insurance Administration.*  
 Issued: February 21, 1989.  
 [FR Doc. 89-4571 Filed 2-27-89; 8:45 am]  
 BILLING CODE 6718-03-M

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 46 CFR Parts 10 and 15

[CGD 81-059a]

RIN 2115-AB91

#### Licensing of Officers and Operators for Mobile Offshore Drilling Units

**AGENCY:** Coast Guard, DOT.

**ACTION:** Suspension of effective date.

**SUMMARY:** Notice is hereby given that the previously published, April 1, 1989, effective date of the Interim Final Rule regarding Licensing of Officers and Operators for Mobile Offshore Drilling Units is suspended indefinitely. This action is being taken because comments on the Interim Final Rule indicate substantive revisions to the rule are necessary. Affected members of the maritime public will not be required to comply with the Interim Final Rule as published.

**FOR FURTHER INFORMATION CONTACT:** LT R.K. Meints, Office of Marine Safety, Security and Environmental Protection, (G-MVP). Phone (202) 267-0224.

**SUPPLEMENTARY INFORMATION:** The Coast Guard published an Interim Final Rule on Licensing of Officers and

Operators for Mobile Offshore Drilling Units in the Federal Register on October 16, 1987 (52 FR 38660). That Interim Final Rule contained an effective date of April 1, 1989, which is hereby suspended indefinitely. This action is being taken because comments on the Interim Final Rule indicate substantive revisions to the rule are necessary. Affected members of the maritime public will not be required to comply with the Interim Final Rule as published. A Supplemental Notice of Proposed Rulemaking incorporating changes resulting from comments on the Interim Final Rule will be published in the Federal Register in the near future.

Dated: February 22, 1989.

**M.J. Schiro,**  
*Captain, U.S. Coast Guard, Acting Chief, Office of Marine Safety, Security and Environmental Protection.*

[FR Doc. 89-4642 Filed 2-27-89; 8:45 am]

BILLING CODE 4910-14-M

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MM Docket No. 87-7; FCC 88-343]

#### Broadcast Services; Amendment of the Radio Dupoly Rule to Liberalize the Restrictions Against the Common Ownership of Two or More Commercial Radio Stations in the Same Broadcast Service Whose 1 mV/m Contours Overlap

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** On October 27, 1988, the Commission adopted amendments to the radio duopoly rule contained in § 73.3555(a) of the Commission's Rules and Regulations. The Commission has relaxed this rule to a principal-city contour standard (the 5 mV/m contour for AM stations and the 3.16 mV/m contour for FM stations). A *Public Notice*, released on December 9, 1988, advised that these amendments became effective immediately upon adoption.

The principal-city contour standard more accurately reflects the geographic area where most of a station's audience is located and relieves the overly restrictive effects of the current rule.

**EFFECTIVE DATE:** October 27, 1988.

**ADDRESS:** Federal Communications Commission, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Michele Farquhar, Policy and Rules



Division, Mass Media Bureau, (202) 632-7792.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's decision in MM Docket No. 87-7, adopted October 27, 1988, and released February 22, 1989. Pursuant to a *Public Notice* released on December 9, 1988, this decision became effective immediately upon adoption. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

#### Summary of Decision

1. This decision modifies one of the Commission's local ownership rules—the radio duopoly rule, which prohibits the common ownership of two or more commercial radio stations in the same broadcast service whose 1 mV/m contours overlap. The Commission is relaxing this rule to a principal-city contour standard (the 5 mV/m contour for AM stations and the 3.16 mV/m contour for FM stations). This refinement of the contour overlap represents a relatively minor adjustment to the rule, under which ownership of two AM or FM stations located in the same "principal city" will still be prohibited. Nevertheless, this action will enable broadcasters to own two or more commercial radio stations in the same service in closer proximity than is currently allowed, enabling them to realize some of the efficiencies of common ownership.

2. This rule was adopted in 1964 in order to promote the dual goals of economic competition and viewpoint diversity in the ownership of broadcast stations. The *Notice of Proposed Rule Making* in this proceeding proposed relaxing the rule to a principal-city contour standard to reflect the geographic area in which most radio listenership occurs, the undue discrimination against AM broadcasters caused by the present rule, the tremendous growth in the number and types of media outlets in large and small markets in the 24 years since the rule was adopted, and the benefits of common station ownership. Commenters responding to the *Notice* overwhelmingly agreed with the Commission's initial determination that the rule should be liberalized in light of these factors.

3. Based on the record in this proceeding and the overwhelming support of the comments received, the Commission concluded that the public interest would best be served by relaxing the rule as proposed in the *Notice*. The principal-city contour standard more accurately reflects the geographic area where most of a station's audience is located and relieves the overly restrictive effects of the current rule, including the unwarranted discrimination against AM broadcasters. Under this relatively minor adjustment to the rule, the Commission will still prohibit the common ownership of stations in the same service located in the same listening area. In view of this fact, as well as the substantial growth and availability of media outlets in local markets, the Commission does not believe that this modification will adversely affect our traditional competition and diversity goals. In fact, this decision may actually enhance these goals given the efficiencies and public service benefits possible from common ownership of stations in the same vicinity.

#### List of Subjects in 47 Part 73

Radio broadcasting, Television broadcasting.

#### Rule Amendments

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

#### PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. sections 154 and 303.

2. Section 73.3555 is amended by revising paragraph (a) (1) and (2) to read as follows:

#### § 73.3555 Multiple ownership.

(a) \* \* \*

(1) Any overlap of the predicted or measured 5 mV/m groundwave contours of the existing and proposed AM stations, computed in accordance with § 73.183 or § 73.186; or

(2) Any overlap of the predicted 3.16 mV/m contours of the existing and proposed FM stations, computed in accordance with § 73.313; or

\* \* \*  
Federal Communications Commission  
Donna R. Searcy,  
Secretary.

[FR Doc. 89-4506 Filed 2-27-89; 8:45 am]

BILLING CODE 6712-01-M

#### 47 CFR Part 95

[DA 89-147]

#### Personal Radio Service; Amendment of Subpart C of Part 95 of the Commission's Rules Concerning Data Transmissions and Permissible Communications

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This amended rule conforms and clarifies the Radio Control (R/C) Service Rules concerning the transmissions of data by stations in the R/C Radio Service. The rule is necessary to respond to questions about whether an R/C station is permitted to transmit data. The amended rules will eliminate frequently asked questions about the rules.

**EFFECTIVE DATE:** March 31, 1989.

**ADDRESS:** Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** James Shaffer, Federal Communications Commission, Private Radio Bureau, Washington, DC 20554, (202) 632-7197.

**SUPPLEMENTARY INFORMATION:** This is a summary of an Order of the Chief, Private Radio Bureau, adopted February 6, 1989, and released February 15, 1989. The complete text of this Order, including the rule amendment, is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230) 1919 M Street, NW., Washington, DC. The complete text of this Order, including the rule amendment, may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

#### Summary of Notice of Proposed Rule Making

1. Section 95.211(b)(2) of the Commission's Rules, 47 CFR 95.211(b)(2), authorizes an R/C station to transmit one-way indicating device for the operator. This rule frequently generates questions about whether an R/C station is permitted to transmit data. The transmission of data, however, is prohibited. This prohibition is contained in Part 95, Subpart E, the technical regulations for the Personal Radio Services. Section 95.627(e) of the Commission's Rules, 47 CFR 95.627(e), specifically prohibits non-voice data transmissions in the R/C service.

2. The operating rules for the R/C service, however, contained in Part 95,



Subpart C, are silent with respect to the transmission of data. For the benefit of equipment manufacturers and other members of the public, we are incorporating the prohibition against data transmissions, contained in § 95.627(e) of Subpart E of the Commission's Rules, into § 95.212 of Subpart C. We are also amending § 95.212 by including a statement that where multiple sensors or devices are used, tone or other encoded signals used only for the purpose of identifying a specific sensor or device are not considered to be data and, thus, may be transmitted.

3. This Order has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure or record retention requirements; and will not increase or decrease burden hours imposed on the public.

4. Authority for this action is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r), and 0.331 of the Commission's Rules 47 CFR 0.331.

5. Accordingly, it is ordered that § 95.212 of the Commission's Rules is amended as shown at the end of this document.

#### List of Subjects in 47 CFR Part 95

Data communications.

Donna R. Searcy,  
Secretary.

#### Amended Rules

Part 95 of Chapter I of Title 47 of the Code of Federal Regulations is amended, as follows:

#### PART 95—[AMENDED]

1. The authority citation for Part 95 continues to read:

Authority citation: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303.

2. Section 95.212 is amended by adding a new paragraph (f):

#### § 95.212 (R/C Rule 12) What communications are prohibited?

(f) To transmit data. Tone or other signal encoding, however, is not considered to be data when only used either for the purpose of identifying the specific device among multiple devices that the operator intends to turn on/off, or the specific sensor among multiple sensors intended to turn on/off indicating device for the operator.

[FR Doc. 89-3973 Filed 2-27-89; 8:45 am]

BILLING CODE 6712-01-M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of the Assistant Secretary for Administration

48 CFR Parts 2401, 2402, 2406, 2409, 2412, 2413, 2414, 2415, 2416, 2417, 2419, 2422, 2424, 2426, 2427, 2432, 2434, 2437, 2442, 2446, 2451, 2452, and 2453

[Docket No. R-89-1351; FR-2131]

### Acquisition Regulation; Solicitation Provisions, Contract Clauses, Forms, and Other Miscellaneous Amendments; Announcement of Effective Date for Final Rule

AGENCY: Office of the Assistant Secretary for Administration, HUD.

ACTION: Notice of announcement of effective date for final rule.

SUMMARY: On November 17, 1988 (53 FR 46532), the Department published in the Federal Register a final rule that adopted, without substantive change, the proposed HUDAR rule of December 8, 1987, that supplemented the Federal Acquisition Regulation (FAR) by adding solicitation provisions, contract clauses, and HUD forms to the HUDAR. The final rule also amended the proposed rule by removing some clauses that had been mooted by subsequent issuance of FAR coverage; reorganized the existing text in different sections; and also made minor technical corrections. The purpose of this notice is to announce the effective date of that final rule.

EFFECTIVE DATE: The effective date of the final rule published November 17, 1988, is March 3, 1989.

FOR FURTHER INFORMATION CONTACT: Gladys Gines, Deputy Director, Policy and Evaluation Division, Office of Procurement and Contracts, Room 5260, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 755-5294. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Section 7(o)(3) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(o)(3), requires HUD to wait thirty calendar days of continuous session of Congress, after publication, before it makes a rule effective. The effective date provision of the published rule affected by this Notice stated that the rule would become effective upon expiration of the first period of 30 calendar days of continuous session of Congress after publication, and announce that future notice of the rule's effectiveness would be published in the

Federal Register. Thirty calendar days of continuous session of Congress will have expired in the present Congress before March 3, 1989.

Accordingly, the effective date for the final rule published in the Federal Register on November 17, 1988 (53 FR 46532), is March 3, 1989.

Authority: Sec. 205(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486c); Sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: February 22, 1989.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 89-4578 Filed 2-27-89; 8:45 am]

BILLING CODE 4210-01-M

## DEPARTMENT OF TRANSPORTATION

### Research and Special Programs Administration

#### 49 CFR Part 173

[Docket No. HM-201B; Amdt. No. 173-208]

RIN: 2137-AB39

### Shippers; Use Of Tank Car Tanks with Localized Reductions in Shell Thickness

December 28, 1988.

AGENCY: Research and Special Programs Administration (RSPA), (DOT).

ACTION: Final rule.

SUMMARY: RSPA is amending the Hazardous Materials Regulations (HMR; 49 CFR Part 173) to (1) permit the use of railroad tank car tanks with tank shell thicknesses in localized areas less than the minimum specified in the Hazardous Materials Regulations (HMR) and (2) require the measurement of tank car tank thicknesses under certain conditions. This action is necessary to verify that tank repairs do not result in significant decreases in shell thicknesses. The intended effect of this action is to assure that tank repairs do not result in a reduction in the level of safety and to facilitate commerce by allowing the use of tank car tanks, with localized reductions in shell thickness, which have been determined to be safe for the transportation of hazardous materials.

EFFECTIVE DATE: These amendments are effective on June 1, 1989. However, compliance with the regulations as amended herein is authorized as of March 30, 1989.

FOR FURTHER INFORMATION CONTACT: Philip Olekszyk, Deputy Associate Administrator for Safety, Federal



Railroad Administration, RRS-2, Washington, DC 20590, Telephone (202) 366-0897.

**SUPPLEMENTARY INFORMATION:** On December 8, 1987, RSPA published a notice of proposed rulemaking (NPRM) in the *Federal Register*, under Docket HM-201B, Notice No. 87-11 (52 FR 46511). In Notice 87-11, RSPA and the Federal Railroad Administration (FRA) proposed to (1) permit the use of railroad tank car tanks with tank shell thicknesses in localized areas less than the minimum specified in the Hazardous Materials Regulations (HMR) and (2) require the measurement of tank car tank thicknesses under certain conditions. These actions were based upon the belief of RSPA and FRA that small localized reductions in shell thickness due to tank repairs would not significantly reduce the safety level of tank car tanks and upon the observation of FRA that some repair facilities were not recording tank car tank thickness measurements on repair records. The interested reader is directed to Notice No. 87-11 for additional background information concerning this rulemaking.

In response to the NPRM, RSPA received 17 comments concerning the reductions in shell thickness and one comment concerning the tank car tank measurement issue. Several commenters suggested that there is not or should not be any requirement for minimum tank car shell thicknesses after a tank car has been built. These commenters further suggested that the periodic hydrostatic tests should be sufficient to ensure the continued safety of the affected tank car tanks. RSPA and FRA disagree with this position. RSPA's and FRA's position is that, under the current HMR, if for any reason a package, including a tank car tank, does not meet the applicable specification under which it was constructed, the specification markings on the package must be removed or rendered illegible thereby removing its certification as a specification package. This docket would modify that general rule for certain special situations.

All commenters who responded to the thin shell issue supported the concept that tank car tanks which have small localized reductions of shell thickness due to tank repairs should be allowed to continue in service. However, the Association of American Railroads (AAR) had four reservations on the specific proposals in Notice No. 87-11. The AAR comments were endorsed by seven other commenters.

The AAR proposed to limit the use of thin shell tank car tanks to so called "pressure tank car tanks" and to class DOT 111 tank car tanks. The AAR noted

that some class DOT 103 tank car tanks have a minimum shell thickness of as low as  $\frac{5}{16}$  inches. RSPA and FRA agree that allowing  $\frac{5}{16}$  inch reductions in shell thickness on some "non-pressure" tank car tanks could pose an unacceptable risk. Therefore, RSPA is limiting the scope of this rulemaking to classes DOT 105, 109, 111, 112, and 114 tank car tanks.

The AAR also proposed to limit the use of thin shell tank car tanks to tanks constructed of carbon steel. The AAR did not elaborate on their reasons for this limitation. However, the research report discussed in Notice No. 87-011 was limited to an analysis of carbon steel tank car tanks. Therefore, RSPA is limiting the scope of this rulemaking to carbon steel tanks.

The AAR also proposed to limit the use of thin shell tank car tanks to those tanks which are attached to car structures which conform with section 6.2 (Design Loads and Stresses) of the AAR Specifications for Tank Cars. The AAR did not elaborate on their reasons for this limitation. However, RSPA and FRA believe that there might be an unacceptable reduction in safety if thin shell tank car tanks were permitted to be used in combination with older car structures that do not conform with 6.2 of the AAR Specifications for Tank Cars. Therefore, RSPA is limiting the scope of this rulemaking to tank car tanks that are attached to car structures conforming with section 6.2.

The AAR further proposed to limit localized reductions in shell thickness areas to no more than 2 feet in perimeter. It is not clear whether the AAR intended that the 2 foot perimeter restriction apply for each reduction in shell thickness or was a cumulative requirement for all reductions in shell thickness on a tank car tank. The AAR did not elaborate on its reasons for proposing a more stringent limitation on the allowable reductions in shell thickness areas, but RSPA and FRA believe that, for a reduction in shell thickness with an irregular shape, it will be considerably easier to determine the perimeter of a reduction in shell thickness than the area of a reduction in shell thickness. Furthermore, the use of a perimeter-based reduction in shell thickness criteria could preclude certain potentially unsafe reduction in shell thicknesses. For example, the area limitation in Notice No. 87-11 would allow a reduction in shell thickness, 60 feet in length and  $\frac{3}{8}$  inches in width, whereas the AAR area limitation would not allow such an extreme situation. However, RSPA and FRA believe that the AAR proposal to limit the maximum

reduction in shell thickness perimeter to 2 feet is unduly restrictive. Therefore, RSPA is amending § 173.31(a)(11)(ii) to require that the total cumulative surface perimeter of the reduction in shell thickness on each tank car tank does not exceed six feet. For reductions in shell thickness that are square or cylindrical, there is little difference between the provisions contained in proposed §§ 173.31(a)(11) (i), and 173.31(a)(11) (ii) as adopted in this final rule, but the AAR proposal is considerably more restrictive than either version. For example, for a tank with a single reduction in shell thickness, the AAR proposal would allow a square reduction in shell thickness with sides of no more than 0.5 feet or a circular reduction in shell thickness with a diameter of no more than 0.6 feet; Notice No. 87-11 would allow a square reduction in shell thickness with sides of no more than 1.4 feet or a circular reduction in shell thickness to have a diameter of no more than 2.5 feet; and this final rule allows a square reduction in shell thickness with sides of no more than 1.5 feet or a circular reduction in shell thickness with a diameter of no more than 1.9 feet. However, for long, narrow reductions in shell thickness this final rule is considerably more restrictive than Notice No. 87-11 but is less restrictive than the AAR proposal. For example, for a tank with a single reduction in shell thickness, the AAR proposal would allow a long narrow reduction in shell thickness with a length of no more than one foot; Notice No. 87-11 would allow a long narrow reduction in shell thickness extending the entire length of the tank car tank; and this final rule allows a long narrow reduction in shell thickness to have a length of no more than three feet.

All commenters who responded to the thin shell issue suggested that the relief proposed in Notice 87-11 should be broadened to additional situations, such as (1) reductions in shell thickness resulting from causes other than repair operations, such as corrosion; (2) reductions in shell thickness on ethylene oxide tank car tanks; (3) reductions in shell thickness on the lower half of any tank car tank head; (4) reductions in shell thickness greater than  $\frac{5}{16}$  inches in depth; (5) reductions in shell thickness with a total cumulative surface area in excess of two square feet; and (6) reductions in shell thickness on cargo tanks. RSPA and FRA believe that additional relief may be justified in some or all of the above situations, as well as for tanks constructed of materials other than carbon steel, for classes DOT 103, 104,



and 115 tanks, for AAR specification tank car tanks, and for tank car tanks that are attached to car structures conforming with section 6.2 of the AAR Specifications for Tank Cars. However, RSPA and FRA believe that there was insufficient information presented in the comments to justify additional relief at this time, and some of the issues raised are beyond the scope of this rulemaking. The AAR noted that it is sponsoring two studies on the thin shell issue. When the results of those studies are available, RSPA and FRA will consider the results and evaluate that information, and information from other sources to determine the need for future rulemaking.

One commenter, who responded to the proposed requirement for the measurement and recording of tank car tank thickness after certain repairs, disagreed with the assertion in Notice 87-11 that these measurements and recording of measurements are already implicitly required by the HMR. However, no substantive arguments were advanced by this commenter to support this position. RSPA and FRA believe that performing these measurements is essential to ensure that tank car tank repairs result in the "reconstruction of a tank to its original design" and are required under the current HMR. The only purpose of the proposed change to § 173.31(f) was for clarity. However, upon review, RSPA and FRA have determined that there is no need to record these measurements because the tank shell (before and after the repair) must be within the established limits set forth in part 179, and the amendments to this rulemaking for localized thin spots. Therefore, by not requiring that these measurements be recorded, RSPA and FRA will reduce the information collection burden previously imposed on the repair facilities. Lastly, in this final rule RSPA is amending § 173.31(f) to require that tank shell thickness measurements be performed only when there is a possible reduction in the tank thickness. Several commenters pointed out a typographical error in proposed § 173.31(a)(11)(v) which prohibited the use of any tank car tank with scores, gouges, or other areas of stress concentration. In the final rule that paragraph is amended to require that no reduction in shell thickness may have any scores, gouges, or other areas of stress concentration.

In § 173.31, RSPA is revising paragraph (a)(11) to clarify that allowing the use of tank car tanks with localized reductions in shell thickness also applies to tank car tanks made and maintained to the specifications of the

Canadian Transport Commission and used to transport hazardous materials within the United States. Paragraph (f) is revised to clarify that the requirements contained in § 173.31 also apply to tank car tank conversions.

#### Administrative Notices

The RSPA has determined that this rulemaking (1) is not "major" under Executive Order 12291; (2) is not "significant" under DOT's regulatory policies and procedures (44 FR 11034); (3) will not affect not-for-profit enterprises or small governmental jurisdictions; and (4) does not require an environmental impact statement under the National Environmental Policy Act (40 U.S.C. *et seq.*) A regulatory evaluation is available for review in the Docket.

Based on limited information concerning the size and nature of entities likely to be affected by this final rule, I certify that this regulation will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. I have reviewed this regulation in accordance with Executive Order 12612 ("Federalism"). It has no substantial direct effects on States, on the Federal-State relationship or on the distribution of power and responsibilities among levels of government. Thus, this regulation contains no policies that have Federalism implications as defined in Executive Order 12612 and, therefore, no Federalism Assessment has been prepared.

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Regulatory Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Regulatory Agenda.

#### List of Subjects in 49 CFR Part 173

Hazardous materials transportation, Packaging and containers.

In consideration of the foregoing, 49 CFR Part 173 is amended as follows:

#### PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

1. The authority citation for Part 173 continues to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1805, 1806, 1807, and 1808; 49 CFR Part 1, unless otherwise noted.

2. In § 173.31, the introductory phrase of the first sentence in paragraph (a)(1) is revised, a new paragraph (a)(11) is added, and paragraph (f)(1) is revised to read as follows:

#### § 173.31 Qualification, maintenance, and use of tank cars.

(a) \* \* \*

(1) Except as otherwise provided in paragraph (a)(11) of this section, \* \* \*

(11) A tank car tank which, as a result of a tank repair, has one or more localized areas where the thickness of the tank is less than that prescribed in Part 179 of this subchapter, may be used to transport hazardous materials provided that—

(i) The tank is constructed of carbon steel;

(ii) The tank meets either the applicable specifications of Part 179 of this subchapter for class DOT 105, 109, 111, 112, or 114 tank car tanks or the corresponding specifications of the Railway Transport Committee of the Canadian Transport Commission for CTC class 105, 109, 111, 112, or 114 tank car tanks;

(iii) The difference between the required minimum thickness of the tank car tank and the actual minimum thickness of the tank car tank does not exceed one-sixteenth of an inch;

(iv) The total cumulative surface perimeter of the reductions in shell thickness on each tank car tank does not exceed six feet;

(v) If the tank car tank is used to transport ethylene oxide, the bursting pressure (see § 179.100-5 of this subchapter) of the tank is at least 750 psig;

(vi) There are no reductions in shell thickness on the lower half of any tank car tank head;

(vii) No reductions in shell thickness may have any scores, gouges or other areas of stress concentration; and

(viii) The tank car tank is attached to a car structure conforming with section 6.2 of the AAR Specifications for Tank Cars.

(f) Repairs, alterations, or conversions. (1) For procedures to be followed in making repairs, alterations, or conversions to all tank car tanks and securing approval therefor, see Appendix R, Association of American Railroads Specifications for Tank Cars. After repairs, alterations, or conversions of a tank car tank that result in a possible reduction in the tank thickness at any point, the thickness of the tank car tank shall be measured in the affected area to verify that the tank



thickness meets the requirements of the applicable tank specification, except as provided in § 173.31(a)(11). If a tank car tank is built to one test pressure, but is authorized to be stenciled to a lower test pressure, the applicable tank specification shall be the higher test pressure specification. If an existing pressure tank car tank is permanently converted to a lower pressure specification in accordance with § 173.31(c)(7), the applicable tank specification shall be that of the lower pressure specification.

Issued in Washington, DC on February 23, 1989 under authority delegated in 49 CFR Part 1.

M. Cynthia Douglass,

Administrator, Research and Special Programs Administration.

[FR Doc. 89-4639 Filed 2-27-89; 8:45 am]

BILLING CODE 4910-60-M

## DEPARTMENT OF INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

#### Endangered and Threatened Wildlife and Plants; Endangered Status for the Speckled Pocketbook (*Lampsilis streckeri*)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

**SUMMARY:** The Service determines the speckled pocketbook mussel (*Lampsilis streckeri*) to be an endangered species under the Endangered Species Act of 1973 (Act), as amended. This freshwater mussel is restricted to the Middle Fork Little Red River with a range of not more than 6 river miles in Van Buren and Stone Counties, Arkansas. The speckled pocketbook has been impacted by reservoir construction, water pollution, and channel modification. This rule implements the full protection of the Endangered Species Act of 1973, as amended, for this freshwater mollusk.

**EFFECTIVE DATE:** March 30, 1989.

**ADDRESSES:** The complete file for this rule is available for inspection, by appointment, during normal business hours at the Jackson, Mississippi, Field Office, U.S. Fish and Wildlife Service, Jackson Mall Office Center, Suite 316, 300 Woodrow Wilson Avenue, Jackson, Mississippi 39213.

**FOR FURTHER INFORMATION CONTACT:** James H. Stewart at the above address (601/965-4900 or FTS 490-4900).

**SUPPLEMENTARY INFORMATION:**

### Background

The speckled pocketbook (*Lampsilis streckeri*) was described by Frierson in 1927 with the type locality an unspecified site on the Little Red River, Arkansas. The species has been reported from Onion Creek, Travis County, and Salado Creek, Bell County, Texas; from the Arkansas River drainage, and from Archey Fork of the Little Red River, Van Buren County, Arkansas (Clarke 1987). The speckled pocketbook was collected from the South Fork of the Little Red River near Clinton, Arkansas in 1984 and 1985 (John Harris, personal communication). Dr. Arthur Clarke collected the speckled pocketbook from the Middle Fork of the Little Red River in 1986.

The record of *L. streckeri* from the Arkansas River drainage reported as *Actinonaias streckeri*, was determined by Johnson (1980) to be the result of misidentification with the specimens actually being *A. rafinesqueana*. The Texas records of *L. streckeri* either cannot be confirmed or are misidentifications of *L. bracteata* (Clarke 1987). The Texas streams are low-gradient and do not provide the required habitat. Numerous recent collections in these streams have contained *L. bracteata* but not *L. streckeri*. The only confirmed sites are in the watershed of the Little Red River.

The speckled pocketbook is a thin mussel about 80 mm long. The shells are elliptical, dark yellow or brown with chevron-like spots, and rays that are chain-like (Frierson 1927). The shells exhibit sexual dimorphism with the females becoming broader and more evenly rounded posteriorly. It can be confused with species of similar shell morphology unless an individual is knowledgeable of mussels and is very observant.

*Villosa vibex* occurs in streams to the south and east of the State of Arkansas, and is very similar to *L. streckeri* based upon only shell morphology. However, characters of the mantle flap differ. Members of the genus *Lampsilis* have a very distinctive mantle flap in the soft parts. In *Lampsilis streckeri*, the mantle flap resembles a small minnow with a small pigment spot and about 5 triangular processes providing a flaring appearance. This unique mantle is apparently used to erode fish close enough for the mussel's larval or glochidia to attach.

Other similar species are *L. reeveiana*, *L. radiata siliquoidea*, and *L. bracteata*. In all three of these similar species, the shell lacks the chevron-like spots and the rays are continuous rather than ribbon-like. *Lampsilis bracteata* is only

reported from Texas. In *L. r. siliquoidea*, the rays are limited to the posterior slope of the shell or become faded before reaching the ventral margin (Burch 1975). *Lampsilis reeveiana* further differs by having a large pigment spot and up to twice the triangular processes on the mantle flap (Clarke 1987).

The current known range of *L. streckeri* is limited to about 6 miles of the Middle Fork of the Little Red River in Stone and Van Buren Counties, Arkansas. Adjacent land in this area is privately owned. The species is found in coarse to muddy sand in depths up to 0.4 meters (1.3 feet) with a constant flow of water. This constant flow of water suggests a requirement for well oxygenated conditions and supports Clarke's (1987) conclusion that it cannot survive in pool conditions. Within the Middle Fork, the known range is between the confluences of Meadow Creek upstream and Tick Creek downstream. Above Meadow Creek, the Middle Fork is reduced to intermittent flows during dry periods. From the confluence of Tick Creek downstream to the influence of Greers Ferry Reservoir, the habitat appears suitable for *L. streckeri* but is devoid of live mussels. The species has apparently been extirpated from the remainder of the Little Red River system. The impoundment of Greers Ferry Reservoir and the resulting cold (hypolimnetic) discharges altered virtually all of the mainstem. Channel modifications in Archey and South Forks have modified much of the habitat and likely caused increased water velocities that altered the remaining habitat in these streams.

The species was listed as a candidate (category 2) in the notice of review published on May 22, 1984, in the Federal Register (49 FR 21864). Category 2 species are those taxa for which the Service needs additional information before proposing to list the species. The proposed rule to classify *L. streckeri* as endangered was published on July 25, 1988, in the Federal Register (53 FR 27884).

### Summary of Comments and Recommendations

In the proposed rule and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice inviting general public comment was published



in the "Arkansas Democrat," Little Rock, Arkansas, on August 7; in the "Arkansas Sun," Heber Springs, Arkansas, and in the "Ciburne County Times," Heber Springs, Arkansas, on August 10; and in the "Arkansas Gazette," Little Rock, Arkansas, on August 14, 1988. Four comments were received. Two State agencies commented in support of the proposed rule. One private individual simply requested more information. A county agency did not oppose the listing, but requested the Service to conduct a thorough study of this species to ensure that it is endangered before placing this species on the list. The survey conducted by Clarke was funded by the service to answer the questions presented by this response, and in the view of the Service, the study provides all the data necessary for this determination. Other surveys were also reviewed in making this determination.

#### Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the speckled pocketbook (*Lampsilis streckeri*) should be classified as an endangered species. Procedures found at Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be endangered or threatened due to one or more of the five factors described in Section 4(a)(1). These factors and their application to the speckled pocketbook (*Lampsilis streckeri*) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The speckled pocketbook once occurred in the Little Red River and three tributaries, Archey, South and Middle Forks. The scarcity of collecting records prevents the delineation of the historic range within this system. From what we know of the mussel's preferred habitat and of the Little Red River, the speckled pocketbook very likely occurred in the stretch of river now impounded by Greers Ferry Reservoir, and in the downstream area now altered by the reservoir's cold (hypolimnetic) discharges. The lentic conditions imposed by the reservoir and the hypolimnetic discharges undoubtedly eliminated any speckled pocketbook population in this stretch of river. Archey and South Forks have been modified for flood control. The modification of these channels are the likely cause of the species' apparent

disappearance from these tributaries. The small population of speckled pocketbooks in the South Fork, below the confluence with Archey Fork, apparently have been extirpated by floods scouring the mussel's habitat (Clarke 1987). This scouring likely results from increased water velocity due to channel modification upstream. The only remaining population of the speckled pocketbook is in the Middle Fork Little Red River, Van Buren and Stone Counties, Arkansas (Clarke 1987). Threats to the Middle Fork population appear to be some unidentified and intermittent water pollution from the vicinity of Tick Creek's confluence. The presence of mussel shells in the Middle Fork downstream of Tick Creek and the lack of live mussels of any species indicates a pollution event that eliminated all mussel fauna in this stretch. This river reach down to the influence of Greers Ferry Reservoir still provides suitable habitat for the speckled pocketbook, and the species could probably be reestablished if high water quality is maintained.

B. *Overutilization for commercial, recreational, scientific or educational purposes.* The only known population is restricted to a short reach of one river and consists of only a few hundred individuals (Clarke 1987). Any collection of live individuals from this area would further reduce a population that is already limited and possibly declining. This species has not been known to have been subjected to any previous commercial purpose.

C. *Disease and predation.* Disease is not an apparent threat. The preferred habitat is in shallow water and this makes the species more vulnerable to predation by raccoons and muskrats.

D. *The inadequacy of existing regulatory mechanisms.* The species is not protected by any existing Federal or State regulation. Arkansas requires a scientific collecting permit for anyone to collect any species of mollusc. This permit requirement is very difficult to enforce and generally receives a low priority from law enforcement personnel.

E. *Other natural or manmade factors affecting its continued existence.* The fish host for the juvenile stage of the speckled pocketbook is unknown; therefore, impacts on this aspect of the mussel's life cycle cannot be evaluated. The Middle Fork population range is limited upstream by law or non-existent water flows during the dry months of the year. Much of Archey and South Forks have intermittent water flows during dry seasons, which may be partially due to flood control work discussed under

Factor A. The population is so limited that isolated gene pools that are vulnerable to loss of genetic variability are a distinct possibility. This mussel depends upon water currents to transport gametes from one individual to another. The reduced density of the population decreases the likelihood of successful reproduction.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list the speckled pocketbook as endangered. Endangered status is determined because of the very limited range in one stream, small population size and vulnerability to a single event. Threatened status is not appropriate because the species is restricted to a short stretch of a single river. Critical habitat is not determined for this species for reasons given in the next section.

#### Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate any habitat of a species that is considered to be critical habitat as the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for this species at this time owing to lack of benefit from such designation. No additional benefits would accrue from a critical habitat designation that do not already accrue from the listing. Precise locality data are available to appropriate agencies through the Service office described in the ADDRESSES section. All involved parties and land owners will be notified of the location and importance of protecting this species' habitat.

#### Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires the recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions



against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may adversely affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Federal involvement is expected to include the U.S. Army Corps of Engineers channel maintenance activities and Environmental Protection Agency pollution control and pesticide use programs. The Corps of Engineers conducts channel maintenance for flood control on Archey and South Forks, both of which could be important to the survival and recovery of this species. The Environmental Protection Agency would be involved with efforts to prevent water quality degradation and to approve the use of pesticides within the known range of this species.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial

activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions would apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship that would be suffered if such relief were not available. Since this mussel is not known to be involved in any commercial activity, no request for relief under such a permit are expected.

#### National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to Section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the Federal Register on October 25, 1983 (48 FR 49244).

#### References Cited

- Burch, J.B. 1975. Freshwater Unionacean Clams (Mollusca: Pelecypoda) of North America. Malacological Publ. 204 pp.  
Clarke, A.E. 1987. Status Survey of *Lampsilis streckeri* Frierson (1927) and *Arcidens*

*Wheeleri* (Ortman and Walker 1912). A report to the U.S. Fish and Wildlife Service. 24 pp. plus filed notes.

Frierson, L.S. 1927. A Classified and Annotated Check List of the North American Naiades. Baylor University Press, Waco, Texas. 111 pp.

Johnson, R.I. 1980. Zoogeography of North American Unionacea (Mollusca: Bivalvia) North of the Maximum Pleistocene Glaciation. Bull. Mus. Comp. Zool. 149(2):77-189.

#### Author

The primary author of this final rule is James Stewart (see ADDRESSES section).

#### List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

#### Regulation Promulgation

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

#### PART 17—[AMENDED]

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93-205, 87 Stat. 834; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411; Pub. L. 100-478, 102 Stat. 2306; Pub. L. 100-653, 102 Stat. 3825 (16 U.S.C. 1531 *et seq.*); Pub. L. 99-625, 100 Stat. 3500, unless otherwise noted.

2. Amend § 17.11(h) by adding the following, the alphabetical order under "CLAMS", to the List of Endangered and Threatened Wildlife.

#### § 17.11 Endangered and threatened wildlife.

\* \* \* \* \*

(h) \* \* \*

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Clams							
Pocketbook, speckled	<i>Lampsilis streckeri</i>	U.S.A. (AR)	NA	E	345	NA	DNA



Dated: January 30, 1989.

Becky Norton Dunlop,  
Assistant Secretary for Fish and Wildlife and  
Parks.

[FR Doc. 89-4817 Filed 2-27-89; 8:45 am]

BILLING CODE 4310-55-M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 646

[Docket No. 80624-8266]

#### Snapper-Grouper Fishery of the South Atlantic

**AGENCY:** National Marine Fisheries  
Service (NMFS), NOAA, Commerce.

**ACTION:** Final rule.

**SUMMARY:** NOAA designates two artificial reefs (ARs) off Ft. Pierce, Florida, as special management zones (SMZs) in which specific fishing gear and harvest limitations apply. The intended effect is to promote orderly use of the fishery resources on the ARs, to reduce potential user-group conflicts, and to maintain the intended socioeconomic benefits of the ARs to the maximum extent practicable.

**EFFECTIVE DATE:** March 30, 1989.

**FOR FURTHER INFORMATION CONTACT:**  
Rodney C. Dalton, 813-893-3722.

**SUPPLEMENTARY INFORMATION:** Snapper-grouper species are managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP), prepared by the South Atlantic Fishery Management Council (Council), and its implementing regulations at 50 CFR Part 646, under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). The FMP provides for designation of ARs and fish attraction devices (FADs) as SMZs, in which specific gear and harvest limitations would apply.

An AR or FAD creates fishing opportunities that would not otherwise exist and an AR may increase biological production. The cost of their construction and maintenance can be substantial and their intended socioeconomic benefits (e.g., recreational fishing or tournaments) can be reduced or eliminated if highly efficient fishing gear and fishing practices are not restrained. Therefore, designation of an AR or FAD as a SMZ acts as an incentive for construction.

The Ft. Pierce Sportfishing Club (Club) requested the Council to establish SMZs around two ARs located in the Exclusive Economic Zone off the southeast coast

of Florida for which it holds a Corps of Engineers permit authorizing their construction. FADs are utilized with each AR. The Club requested that the following limitations be applied in these SMZs: (1) Prohibit use of fish traps; (2) prohibit use of bottom longlines; (3) prohibit use of hydraulic and electric reels to fish for fish in the snapper-grouper fishery unless the reels are mounted on hand-held (including rod holder) fishing rods; (4) prohibit spearfishing on the inshore reef; and (5) prohibit harvest or possession of jewfish.

In accordance with the FMP, the Monitoring Team appointed by the Council issued a report evaluating the Club's request, in the context of the FMP's criteria of (1) fairness and equity, (2) promotion of conservation, and (3) prevention of excessive shares. The report also considered possible conflicts among fishermen and impacts on historical uses. A discussion of these criteria was contained in the proposed rule (53 FR 32412, August 25, 1988) and is not repeated here.

After reviewing the Monitoring Team's report, supporting data, comments during public hearings, and other relevant information, the Council recommended and the Director, Southeast Region, NMFS, concurred with the establishment of the SMZs with the requested limitations. This final rule designates the two ARs as SMZs and, in order to (1) promote orderly use of the resource; (2) reduce potential user group conflicts; (3) maintain the intended socioeconomic benefits of the ARs and thereby maintain incentives for the creation of ARs and FADs; (4) optimize the use of the biological production; and (5) create fishing opportunities that would not exist otherwise, imposes the requested restrictions on fishing gear and fishing practices in the SMZs.

#### Comments and Responses

NOAA received 13 written comments supporting the proposed rule from sportfishing clubs and organizations, a marina operator, a charter boat operator, and individuals. These commentators expressed the need for restrictions on "highly efficient" fishing gear to ensure that the intended benefits of these artificial reefs are maintained. The Ft. Pierce Sportfishing Club also submitted additional rationale and information in support of the proposed SMZs.

Two letters from a commercial fishermen's organization and one from an individual objected to the proposed rule. Those commenters opposing the proposed rule raised a number of issues regarding artificial reefs and the

proposed SMZs. One commenter stated that there is no documentation that the SMZs would promote conservation by optimizing social and economic benefits. The proposed rule did not present quantitative economic analysis but did present qualitative descriptions of social and economic benefits. Studies of artificial reefs in South Carolina and south Florida have produced estimates of economic benefits for those reefs and have documented social benefits in terms of increased fishing opportunities and participation rates. During the comment period, the Club provided additional qualitative descriptions of the social and economic benefits for each restriction proposed for the SMZs. Further, few, if any, historical users will be adversely impacted by the proposed action. NOAA believes there is an adequate basis to conclude benefits will exceed costs.

Two commenters suggested that artificial reefs only aggregate fish from surrounding areas, and one stated that this may increase catchability and fishing mortality. The issue of whether artificial reefs actually increase fish production or simply attract fish from adjacent areas has not been resolved conclusively. There is some scientific evidence supporting each position. However, the two functions are not mutually exclusive. It appears that there may be a number of factors influencing the relative importance of production versus aggregation, including: Availability of natural habitat, degree of the fish's dependence on reef habitat, exploitation rates, and the mechanism of natural population limitation (e.g., recruitment versus habitat). Although artificial reefs may increase catchability, the proposed gear restrictions within the SMZs will reduce potential fishing mortality. Minimum size limits applicable to all participants in the fishery will also limit fishing mortality.

One commenter stated that there has been no record of conflict or evidence that any of the prohibited gears has caused a problem. NOAA agrees; however, there is some evidence that these gear types, especially fish traps, have the potential to deplete fish populations from localized areas, including artificial reefs. The proposed restrictions are intended to prevent such problems from occurring. Because there has been no significant use of the prohibited gear at the proposed sites and, therefore, will be no impact on historical uses, NOAA believes that the proposed action is justifiable.

The difficulties of enforcing restrictions in these small geographic areas was also raised as an issue.



NOAA acknowledges that enforcement may be difficult but concludes that the combined enforcement capabilities of the NMFS, U.S. Coast Guard, and Florida, in addition to anticipated cooperation from users of the SMZs, should provide a reasonable level of enforcement.

One commenter representing some of the shrimping industry in northeast Florida claimed that the SMZs would hinder access to their traditional fishing grounds. The two artificial reef sites were permitted by the Corps of Engineers in 1984, and placement of reef materials began in 1985. It is possible that construction of the artificial reefs may have affected access to fishing grounds, but this proposed action, establishing SMZs on these permitted sites, would not have any additional effect on access. Trawling in the SMZs, though probably impractical, is not prohibited.

All commenters objecting to the proposed rule expressed a general concern about the potential proliferation of SMZs. One suggested that no SMZs be approved until it is determined whether artificial reefs and fish attracting devices contribute to overfishing. Although the number of artificial reefs is increasing rapidly, especially in Florida, the procedure in the FMP for establishing SMZs provides for thorough evaluation of each request. Requests are reviewed on a case-by-case basis; criteria for evaluation include fairness and equity, consideration of effects on natural habitat and historical uses, and other factors; and thorough public review is afforded through public hearings and public comment periods. NOAA believes that this process will result in rational development of SMZs. However, NOAA and the Council agree that additional consideration of the impacts of artificial reefs and SMZs would be beneficial. The Council will proceed with a reevaluation of the SMZ concept in the near future.

#### Changes from the Proposed Rule

In the proposed rule, in § 646.24(a)(21), the latitude and longitude specifications for point B were incorrect. The last two digits, showing hundredths of minutes of latitude and longitude, were inverted. This final rule corrects the non-substantive error.

#### Additional Change

In § 646.24(a)(1), the coordinates for the Little River Reef SMZ are listed in incorrect order. This rule corrects the error and revises for clarity the format for showing the points designating the SMZ.

#### Classification

The Under Secretary for Oceans and Atmosphere, NOAA, (Under Secretary) determined that this rule is necessary for the conservation and management of the snapper-grouper fishery and that it is consistent with the Magnuson Act and other applicable law.

This action is categorically excluded from the requirement to prepare an environmental assessment by NOAA Directive 02-10. These measures are part of the Federal action for which an environmental impact statement (EIS) was prepared. The final EIS for the FMP was filed with the Environmental Protection Agency and the notice of availability was published on August 19, 1983 (48 FR 37702).

The Under Secretary determined that this rule is not a major rule requiring a regulatory impact analysis under E.O. 12291. This rule is not likely to result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The Council prepared a regulatory impact review for this rule. A summary of the economic effects was included in the proposed rule and is not repeated here.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities. The basis for this determination was included in the proposed rule and is not repeated here. As a result, a regulatory flexibility analysis was not prepared.

This rule does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

The Council determined that this rule does not directly affect the coastal zone of any State with an approved coastal zone management program. Florida, the only state involved, agreed with this determination.

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

#### List of Subjects in 50 CFR Part 646

Fisheries, Fishing.

Dated: February 22, 1989.

James E. Douglas, Jr.,

Deputy Assistant Administrator for Fisheries,  
National Marine Fisheries Service.

For reasons set forth in the preamble, 50 CFR Part 646 is amended as follows:

#### PART 646—SNAPPER-GROUPER FISHERY OF THE SOUTH ATLANTIC

1. The authority citation for Part 646 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 646.6, paragraph (n) is removed, paragraphs (o) and (p) are redesignated as paragraphs (n) and (o), and paragraphs (l) and (m) are revised to read as follows:

#### § 646.6 Prohibitions.

(l) Use prohibited or unauthorized fishing gear in a special management zone, as specified in § 646.24(b)(2) and (c).

(m) Harvest or fail to release a jewfish within a special management zone, or possess a jewfish taken from a special management zone, as specified in § 646.24(b)(1).

3. In § 646.24, paragraph (a)(1) is revised, new paragraphs (a)(20) and (21) are added, paragraph (b) is revised, and a new paragraph (c) is added to read as follows:

#### § 646.24 Area limitations.

(a) \*\*\*

(1) *Little River Reef*: The area is bounded by straight lines connecting the following points in the order listed:

Point	Latitude	Longitude
A.....	33°49.60' N.....	78°30.51' W.
B.....	33°48.95' N.....	78°31.30' W.
C.....	33°48.40' N.....	78°30.50' W.
D.....	33°48.92' N.....	78°29.72' W.
A.....	33°49.60' N.....	78°30.51' W.

\* \* \* \* \*

(20) *Ft. Pierce Inshore Reef*: The area is bounded on the north by 27°26.8' N. latitude; on the south by 27°25.8' N. latitude; on the east by 80°09.24' W. longitude; and on the west by 80°10.36' W. longitude.

(21) *Ft. Pierce Offshore Reef*: The area is bounded by straight lines connecting the following points in the order listed:

Point	Latitude	Longitude
A.....	27°23.68' N.....	80°03.95' W.
B.....	27°22.80' N.....	80°03.60' W.
C.....	27°23.94' N.....	80°00.02' W.
D.....	27°24.85' N.....	80°00.33' W.



Point	Latitude	Longitude
A.....	27°23.68' N.....	80°03.95' W.

(b) The following restrictions apply within all of the SMZs specified in paragraph (a) of this section.

(1) Jewfish may not be harvested by any type of gear. Jewfish taken incidentally by hook-and-line gear must be released immediately by cutting the

line without removing the fish from the water.

(2) The use of fish traps and bottom longlines is prohibited.

(c) The following additional restrictions apply in the indicated SMZs.

(1) In SMZs specified in paragraphs (a) (1) through (19) of this section,

(i) The use of gill nets and trawls is prohibited; and

(ii) Fishing may be conducted only with hand-held hook-and-line gear (including manual, electric, or hydraulic

rod and reel) and spearfishing gear (including powerheads).

(2) In SMZs specified in paragraphs (a) (20) and (21) of this section hydraulic and electric reels that are permanently affixed to the vessel are prohibited when fishing for fish in the snapper-grouper fishery.

(3) In the SMZ specified in paragraph (a)(20) of this section, the use of spearfishing gear is prohibited.

[FR. Doc 89-4596 Filed 2-27-89; 8:45 am]

BILLING CODE 3510-22-M



# Proposed Rules

Federal Register

Vol. 54, No. 38

Tuesday, February 28, 1989

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## FEDERAL TRADE COMMISSION

### 16 CFR Part 13

[File No. 871-0010]

#### Medical Staff of Dickinson County Memorial Hospital et al.; Proposed Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

**SUMMARY:** In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, 12 doctors, the medical staff and two medical societies of Michigan from combining or conspiring to coerce, intimidate, threaten to boycott, or boycott Marquette General Hospital or other physicians, hospitals and health care providers. The consent agreement would require respondent to mail copies of the complaint and order to certain medical officials.

**DATE:** Comments must be received on or before May 1, 1989.

**ADDRESS:** Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580.

**FOR FURTHER INFORMATION CONTACT:** David Pender, FTC/S-3115, Washington, DC 20580. (202) 326-2549.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will

be available for inspection and copying at its principal office in accordance with section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

#### List of Subjects in 16 CFR Part 13

Doctors, Medical staff, Physicians, Trade practices.

#### Agreement Containing Consent Order to Cease and Desist

In the matter of Medical Staff of Dickinson County Memorial Hospital, an unincorporated association, William A. Belding, M.D., Robert G. Calderwood, D.M.D., John M. Cook, M.D., J. Michael Garrett, M.D., William R. Gladstone, M.D., Stephen R. Leonard, M.D., John L. Loewen, M.D., Carl H. Reinighaus, D.O., Gary J. Roberts, M.D., John F. Selden, M.D., Mervin J. Specht, M.D., Kirk L. Susott, M.D., Dickinson-Iron County Medical Society, an unincorporated association, and Delta County Medical Society, an unincorporated association.

The Federal Trade Commission having initiated an investigation of certain acts and practices of the proposed respondents, and it now appearing that the proposed respondents are willing to enter into an agreement containing an order to cease and desist from engaging in the acts and practices being investigated,

It is hereby agreed by and between the proposed respondents and their duly authorized attorneys and counsel for the Federal Trade Commission that:

1. Proposed respondent Medical Staff of Dickinson County Memorial Hospital ("Medical Staff"), an unincorporated association organized and existing under and by virtue of the laws of the State of Michigan, has its principal place of business at Dickinson County Memorial Hospital, 400 Woodward Avenue, Iron Mountain, Michigan, 49801. Proposed respondent Dickinson-Iron County Medical Society is an unincorporated association, organized and existing under and by virtue of the laws of the State of Michigan, and is located at 400 Woodward Avenue, Iron Mountain, Michigan 49801. Proposed respondent Delta County Medical Society is an unincorporated association, organized and existing under and by virtue of the laws of the State of Michigan, and is located at Doctors Park, Escanaba, Michigan 49829. Proposed individual respondents are licensed and do business under and by virtue of the laws of the State of Michigan. Their office addresses are:

William A. Belding, M.D., Dickinson County Memorial Hospital (DCMH), 400 Woodward Ave., Iron Mountain, MI 49801; Robert G. Calderwood, D.M.D., Medical Park Clinic, 1005 South Hemlock Street, Iron Mountain, MI 49801; John M. Cook, M.D., 1001 Hemlock Street, Iron Mountain, MI 49801; J. Michael Garrett, M.D., 1301 S. Carpenter Avenue, Iron Mountain, MI 49801; William R. Gladstone, M.D., 804 Main Street, Norway, MI 49870; Stephen R. Leonard, M.D., Medical Park Clinic, Hemlock Street, Iron Mountain, MI 49801; John L. Loewen, M.D., 615 Washington Street, Niagara, WI 54151; Carl H. Reinighaus, D.O., 441 Florence Ave., Florence, WI 54121; Gary J. Roberts, M.D., Medical Park Clinic, Hemlock Street, Iron Mountain, MI 49801; John F. Selden, M.D., 401 N. Boulevard, Kingsford, MI 49801; Mervin J. Specht, M.D., DCMH, 400 Woodward Ave., Iron Mountain, MI 49801; and Kirk L. Susott, M.D., Medical Park Clinic, Hemlock Street, Iron Mountain, MI 49801.

2. Proposed individual respondents and proposed respondents Medical Staff, Dickinson-Iron County Medical Society, and Delta County Medical Society admit all of the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed individual respondents and proposed respondents Medical Staff, Dickinson-Iron County Medical Society, and Delta County Medical Society waive:

- (a) Any further procedural steps;
- (b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;
- (c) All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered pursuant to this agreement; and
- (d) Any claim under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this



agreement and so notify respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules of Practice, the Commission may, without further notice to respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to respondents' addresses stated in this agreement shall constitute service. Proposed individual respondents and proposed respondents Medical Staff, Dickinson-Iron County Medical Society, and Delta County Medical Society waive any right they may have to any other manner of service. The complaint attached hereto may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed individual respondents and proposed respondents Medical Staff, Dickinson-Iron County Medical Society, and Delta County Medical Society have read the proposed complaint and order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed individual respondents and proposed respondents Medical Staff, Dickinson-Iron County Medical Society, and Delta County Medical Society further understand that they may be liable for civil penalties in the amount provided

by law for each violation of the order after the order becomes final.

## Order

### I.

For the purposes of this order, the following definitions shall apply:

1. "Medical Staff" shall mean the Medical Staff of Dickinson County Memorial Hospital, and its successors, assigns, officers, directors, committees, agents, employees, or representatives.

2. "Upper Peninsula" shall mean the Michigan counties of Alger, Baraga, Chippewa, Delta, Dickinson, Gogebic, Houghton, Iron, Keweenaw, Luce, Mackinac, Marquette, Menominee, Ontonagon, and Schoolcraft.

3. "Individual respondents" shall mean William A. Belding, M.D.; Robert G. Calderwood, D.M.D.; John M. Cook, M.D.; J. Michael Garrett, M.D.; William R. Gladstone, M.D.; Stephen R. Leonard, M.D.; John L. Loewen, M.D.; Carl H. Reinighaus, D.O.; Gary J. Roberts, M.D.; John F. Selden, M.D.; Mervin J. Specht, M.D.; Kirk L. Susott, M.D.; and their agents, employees, or representatives.

4. "Dickinson-Iron County Medical Society" shall mean the Dickinson-Iron County Medical Society, and its successors, assigns, officers, directors, committees, agents, employees, or representatives.

5. "Delta County Medical Society" shall mean the Delta County Medical Society, and its successors, assigns, officers, directors, committees, agents, employees, or representatives.

6. "Integrated joint venture" means a joint arrangement to provide pre-paid health care services in which physicians who would otherwise be competitors pool their capital to finance the venture, by themselves or together with others, and share substantial risk of adverse financial results caused by unexpectedly high utilization or costs of health care services.

### II.

It is ordered that each individual respondent, respondent Medical Staff, respondent Dickinson-Iron County Medical Society, and respondent Delta County Medical Society, directly or indirectly or through any device, shall henceforth cease and desist from entering into, maintaining, or continuing, or attempting to enter into, maintain, or continue, any agreement or understanding, either express or implied, between or among themselves or with other physicians, health care practitioners, medical societies, hospitals, or medical staffs to:

A. Refuse to deal, threaten to refuse to deal, or attempt to induce others to

refuse to deal or threaten to refuse to deal, with any physician, group of physicians, hospital, medical clinic, or other health care provider; and

B. Withhold patient referrals, threaten to withhold patient referrals, or attempt to induce others to withhold patient referrals or threaten to withhold patient referrals, from any physician, group of physicians, hospital, medical clinic, or other health care provider.

### III.

A. It is provided that this order shall not be construed to prohibit the respondent Medical Staff or its members from engaging, pursuant to the Medical Staff's by-laws, in credentialing, corrective action, utilization review, quality assurance, peer review, or hospital policy-making at Dickinson County Memorial Hospital, where such conduct by the Medical Staff neither constitutes nor is part of any agreement, combination, or conspiracy, the purpose or effect of which is to impede competition unreasonably.

B. It is further provided that this order shall not be construed to prohibit any individual respondent from entering into an agreement or combination with any physician or other health care practitioner with whom the individual respondent practices in partnership or in a professional corporation, or who is employed by the same person as the respondent.

C. It is further provided that this order shall not be construed to prohibit any respondent physician, respondent Medical Staff, respondent Dickinson-Iron County Medical Society, or respondent Delta County Medical Society from forming, facilitating the formation of, or participating in an integrated joint venture that refuses to deal with any person or entity, as long as the physicians participating in the joint venture remain free to deal with any third-party payor other than through the joint venture.

### IV.

A. It is further ordered that within thirty (30) days after this order becomes final, the respondent Medical Staff shall mail a copy of this order and the accompanying complaint to: (1) The President and each member of the Board of Trustees of Dickinson County Hospitals, Iron Mountain, Michigan; (2) the President of the Board of Trustees of Marquette General Hospital, Marquette, Michigan; and (3) each physician practicing in the Upper Peninsula of Michigan as of the date of service of this order.



B. It is further ordered that each individual respondent shall, within sixty (60) days after this order becomes final, and at any time the Commission, by written notice, may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which the respondent complied with this order and intends to comply with this order.

C. It is further ordered that respondent Medical Staff, respondent Dickinson-Iron County Medical Society, and respondent Delta County Medical Society shall, within sixty (60) days after this order becomes final, and annually on the anniversary date of the initial report for each of the five years thereafter, and at such other times as the Commission by written notice may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which the respondent complied with this order and intends to comply with this order.

D. It is further ordered that for a period of seven (7) years after this order becomes final each individual respondent: (1) shall promptly notify the Commission of any change in respondent's business address; and (2) shall promptly notify the Commission whenever he or she enters into any new business, employment, or hospital affiliation that involves the provision of medical care. Each such notice shall include the individual respondent's new business address and a statement of the business, employment or hospital affiliation in which the individual respondent is newly engaged as well as a description of the individual respondent's duties and responsibilities in connection with the business or employment. The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this order.

E. It is further ordered that respondent Medical Staff, respondent Dickinson-Iron County Medical Society, and respondent Delta County Medical Society shall promptly notify the Commission of any change in their business addresses or of any proposed change in their organizations that may affect compliance obligations arising out of this order.

#### Dickinson County Physicians, Unnamed Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement to a proposed consent order from a medical staff, twelve members of that medical staff, and two medical societies ("proposed respondents") in the Upper Peninsula of Michigan. The

agreement would settle charges by the Federal Trade Commission that the proposed respondents violated Section 5 of the Federal Trade Commission Act by conspiring to prevent a new medical office from offering services to consumers in the area of Dickinson County, Michigan, in competition with them.

The proposed consent order has been placed on the public record for sixty days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

#### The Complaint

A complaint has been prepared for issuance by the Commission along with the proposed order. The complaint alleges that the Marquette General Hospital ("MGH"), a tertiary care hospital in Marquette County, Michigan, provides specialized services not available in smaller hospitals in the Upper Peninsula of Michigan, such as those in Dickinson County. As a tertiary care hospital, a substantial portion of the revenues of MGH result from tests and hospital admissions of patients whom physicians in other parts of the Upper Peninsula refer to the physicians on the MGH staff. For diagnosis and treatment using some complex medical procedures, or for services of physicians who practice specialties not available in Dickinson County, residents of Dickinson County usually travel to physicians and/or hospitals in Green Bay, Wisconsin (approximately 85 miles south of Dickinson County), Marquette, Michigan (approximately 85 miles north of Dickinson County), or Marshfield, Wisconsin (approximately 140 miles southwest of Dickinson County).

According to the complaint, MGH announced plans in September 1986 to build a multispecialty medical office in Dickinson County, to staff the office with three full-time salaried primary care physicians, and to offer specialized physician services on a part-time schedule. MGH officials believed the medical office would provide valuable primary care and specialty services that were previously unavailable to consumers in the Dickinson County area, and that the office would also permit MGH to compete more effectively with other hospitals outside Dickinson County for the business of Dickinson County residents who travel outside the county for complex medical procedures.

The complaint alleges that the respondent Medical Staff of Dickinson County Memorial Hospital ("Medical Staff") and the individual respondent members of the Medical Staff saw the MGH medical office as a competitive threat. In an effort to eliminate this threat, the respondents entered into a combination or conspiracy to coerce, intimidate, threaten to boycott, or boycott Marquette General Hospital and its physicians in order to prevent the proposed new medical office from offering services to consumers in competition with them. In furtherance of the conspiracy, the Medical Staff (which includes almost all the practicing physicians in Dickinson County), the individual respondents, and the Dickinson-Iron County Medical Society (which also includes almost all the practicing physicians in Dickinson County) agreed to: (1) Threaten to refuse to refer, or refuse to refer, patients to specialist physicians practicing at the new MGH medical office; (2) refuse to work for the MGH medical office; and (3) solicit physicians throughout the Upper Peninsula to join in a conspiracy to threaten to cease referring, or to cease referring, patients to physicians at MGH. The complaint alleges that after the Delta County Medical Society, another Medical Society in the Upper Peninsula of Michigan, joined the conspiracy, all the proposed respondents threatened to cease referring, or ceased to refer, patients to specialist physicians practicing at MGH.

The complaint alleges that the proposed respondents' actions have injured consumers in or near Dickinson County, by, among other things:

A. Hindering competition among physicians and hospitals in the provision of health care services;

B. Depriving consumers of their ability to choose among alternative types of health care facilities and physicians competing on the basis of price, service, and quality;

C. Impairing Marquette General's efforts to give consumers more access to medical services, including services offered by salaried primary care physicians; and

D. Deterring other hospitals or medical clinics from operating medical facilities in competition with physicians.

#### The Proposed Consent Order

The proposed consent order would prohibit each proposed respondent from entering into, maintaining, or attempting to enter into, any agreement with any physician, health care practitioner, medical society, hospital, or medical staff to: (1) refuse to deal, threaten to



refuse to deal, or attempt to induce others to refuse to deal with any physician, group of physicians, hospital, medical clinic, or other health care provider; or (2) withhold patient referrals, threaten to withhold patient referrals, or attempt to induce others to withhold patient referrals from any physician, group of physicians, hospital, medical clinic, or other health care provider.

The proposed order would not prohibit the Medical Staff respondent from engaging, pursuant to the Medical Staff's by-laws, in quality assurance, peer review, and the like where the conduct is not part of an agreement that has the purpose or effect of impeding competition unreasonably. This provision makes clear that the Medical Staff can engage in its customary activities so long as they are not aimed at impeding competition. The proposed order would not prohibit an individual respondent from entering into an agreement with any other physician if the individual respondent practices with that physician as a partner or in a professional corporation, or if they are employed by the same person. For example, a proposed respondent and his partner could make a joint decision regarding participation with a health maintenance organization. This provision recognizes that partners in a group practice are not competitors and thus constitute one economic entity under the antitrust laws. The proposed order would also not prohibit any respondent from participating in or helping form an integrated joint venture, so long as the physicians participating in the joint venture are free to deal with third party payers other than through the joint venture. This provision allows respondents to participate in arrangements such as health maintenance organizations, so long as participants in the arrangement are not prohibited from dealing with other third party payers.

The order would also require the Medical Staff respondent to mail copies of this complaint and order to officials at Dickinson County Hospitals, to the President of the Board of Marquette General Hospital, and to each physician practicing in the Upper Peninsula of Michigan.

The purpose of this analysis is to facilitate public comment on the proposed order. The analysis is not intended to constitute an official interpretation of the agreement and proposed order or to modify its terms in any way.

The proposed order was entered into for settlement purposes only and does not constitute an admission by any of

the proposed respondents that the law was violated as alleged in the complaint.

Donald S. Clark,

Secretary.

[FR Doc. 89-4561 Filed 2-27-89; 8:45 am]

BILLING CODE 6750-01-M

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 117

[CGD8-89-02]

#### Drawbridge Operation Regulations; Terrebonne Bayou, LA

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

**SUMMARY:** At the request of the Louisiana Department of Transportation and Development (LDOTD), the Coast Guard is considering a change to the regulations governing the operations of two State-owned drawbridges over Terrebonne Bayou, Louisiana, as follows:

(1) The vertical lift span bridge, mile 22.2, on LA 58 at Montegut, Terrebonne Parish, Louisiana.

(2) The swing span (Daigleville) bridge, mile 35.5, on LA 57 at Houma, Terrebonne Parish, Louisiana.

This proposed change would require that the draw of the bridge at Montegut, mile 22.2, open on at least four hours advance notice from 9 p.m. to 5 a.m. Presently, the draw of the bridge at Montegut is required to open on signal at all times.

Also, this proposal would require that the draw of the Daigleville bridge at Houma, mile 35.5, open on at least four hours advance notice from 10 p.m. to 6 a.m. This would be in addition to the present regulation which states that the draw of this bridge need not be opened from 7 a.m. to 8:30 a.m. and from 4:30 p.m. to 6 p.m., Monday through Friday, except holidays.

This proposal is being made because of infrequent requests to open the draws of the bridges during the prescribed four-hour advance notice times. This action should relieve the bridge owner of the burden of having persons constantly available at the bridges during the proposed advance notice times while still providing for the reasonable needs of navigation.

**DATE:** Comments must be received on or before April 14, 1989.

**ADDRESSES:** Comments should be mailed to Commander (ob), Eighth Coast Guard District, 500 Camp Street, New

Orleans, Louisiana 70130-3396. The comments and other materials referenced in this notice will be available for inspection and copying in Room 1115 at this address. Normal office hours are between 8:00 a.m. and 3:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

**FOR FURTHER INFORMATION CONTACT:** John Wachter, Bridge Administration Branch, at the address given above, telephone (504) 589-2965.

#### SUPPLEMENTARY INFORMATION:

Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Eighth Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. This proposed regulation may be changed in the light of comments received.

#### Drafting Information

The drafters of this notice are John Wachter, project officer, and Commander J.A. Unzicker, project attorney.

#### Discussion of Proposed Regulation

Vertical clearance of the vertical lift span bridge, mile 22.2 at Montegut, is three feet above high tide in the closed position and 48 feet above high tide in the open position. Vertical clearance of the swing span bridge, mile 35.5 at Houma, is three feet above high tide in the closed position and unlimited in the open position. Waterway traffic consists of commercial vessels, fishing/shrimping boats and recreational craft. Data submitted by the Louisiana Department of Transportation and Development show that for the Montegut bridge, mile 22.2, there were 182 openings from 1 October 1987 through 30 September 1988 during the proposed advance notice period, an average of one opening every other day. For the Daigleville bridge at Houma, mile 35.5, there were 104 openings for the same calendar period, for an average of one opening every three and one-half (3.5) days.

Considering the few openings involved, the Coast Guard feels that the current on-site attendance between the



hours of 9 p.m. and 5 a.m. at the Montegut bridge, mile 22.2, and the current on-site attendance between the hours of 10 p.m. and 6 a.m. at the Daigleville bridge, mile 35.5 at Houma, is not warranted, and that the bridges can be placed on four hours advance notice during these periods. This arrangement will allow relief to the bridge owner, while still providing for the reasonable needs of navigation.

The advance notice for opening either or both of the draws would be given by placing a collect call at any time to the LDOTD District Office in Bridge City, Louisiana at (504) 436-9100. From afloat, this contact can be made by radiotelephone through a public coast station.

#### Federalism Implications

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. The basis for this conclusion is that the average number of vessels passing these bridges during the proposed advance notice periods, as evidenced by the bridge openings from 1 October 1987 through 30 September 1988, is well below one opening per day. These vessels can reasonably give advance notice for a bridge opening by placing a collect call to the bridge owner at any time. Mariners requiring the bridge openings are repeat users of the waterway and scheduling their arrival at the bridges at the appointed time during the proposed advance notice period should involve little or no additional expense to them. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

#### List of Subjects in 33 CFR Part 117

Bridges.

#### Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, as follows:

#### PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46 and 33 CFR 1.05-1(g).

2. Section 117.505 is amended by redesignating paragraphs (a), (b), and (c) as paragraphs (b), (c), and (d), respectively; by revising newly redesignated paragraph (d); and by adding new paragraphs (a) and (e) to read as follows:

#### § 117.505 Terrebonne Bayou.

(a) The draw of the S58 bridge, mile 22.2 at Montegut, shall open on signal; except that from 9 p.m. to 5 a.m. the draw shall open on signal if at least four hours notice is given.

(d) The draw of the Daigleville bridge, mile 35.5 at Houma, shall open on signal; except that, the draw need not open for passage of vessels Monday through Friday except holidays from 7 a.m. to 8:30 a.m. and 4:30 p.m. to 6 p.m. From 10 p.m. to 6 a.m. the draw shall open on signal if at least four hours notice is given.

(e) During the advance notice periods, the draws of the bridges listed in this section shall open on less than four hours notice for an emergency and shall open on signal should a temporary surge in waterway traffic occur.

Dated: February 2, 1989.

W.F. Merlin,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 89-4473 Filed 2-27-89; 8:45 am]

BILLING CODE 4910-14-M

#### 33 CFR Part 117

[CGD1 89-005]

#### Drawbridge Operation Regulations; Bronx River Bridges, NY

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

**SUMMARY:** At the request of the New York City Department of Transportation (NYCDOT), the Coast Guard is considering amending the regulations governing the Bruckner (Eastern) Boulevard (I-278) Highway drawbridge over the Bronx River, at mile 1.1, in Bronx County, New York, to provide

that the draw need not be opened for the passage of vessels for 36 months from April 9, 1989 to April 9, 1992. The proposed temporary regulation is needed to facilitate the reconstruction of the bascule span. This action should relieve the bridge owner of the burden to open the draw during the reconstruction of the bridge and would only permit marine traffic which can pass under the closed spans to transit the waterway. After 36 months, the proposed regulation will terminate, and the bridge will return to the prior mode of operation. The proposed rule also contains a change to simplify the language of the existing regulations regarding clearance gages.

**DATE:** Comments must be received on or before March 21, 1989.

**ADDRESSES:** Comments should be mailed to Commander (obr), First Coast Guard District, Building 135A, Governors Island, New York, NY 10004-5073. The comments and other materials referenced in this notice will be available for inspection and copying at this address. Normal office hours are between 9 a.m. and 3:30 p.m., Monday through Friday, except Federal Holidays. Comments may also be hand-delivered to this address.

#### FOR FURTHER INFORMATION CONTACT:

William C. Heming, Bridge Administrator, First Coast Guard District, at (212) 668-7994.

#### SUPPLEMENTARY INFORMATION:

Interested persons are invited to participate in this rule making by submitting written views, comments, data or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. It is proposed that this rule will become effective on April 9, 1989 and paragraph § 117.771(a) would be suspended from April 9, 1989 until April 9, 1992. Paragraph § 117.771(d) would terminate on April 9, 1992.

The Commander, First Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulation may be changed in light of comments received.

#### Drafting Information

The drafters of this notice are Waverly W. Gregory, Jr., Project Officer, and Lieutenant Robert E. Korroch, Project Attorney.

#### Discussion of Proposed Regulations

Current regulations provide that the draw of the Bruckner (Eastern)



Boulevard Bridge shall open on signal at all times except during morning and evening rush hours. The proposed temporary regulations would suspend a portion of the existing regulation and allow the bridge to remain in the closed position from 9 a.m. on April 9, 1989 through 5 p.m. on April 9, 1992. On September 27, 1988, the Coast Guard approved NYCDOT's plans to advertise the reconstruction project for the bridge. The existing bridge (built in 1953) is a double leaf bascule bridge. The vertical clearance above mean low and mean high water is 34 and 27 feet, respectively.

During a preliminary investigation, the Coast guard contacted the operators of all upstream facilities and all known marine users. Affected facility operators expressed concerns about their ability to transit the waters beneath the bridge during its reconstruction. They indicated that tugs and barges using the waterway required a channel depth of at least ten (10) feet and with the bridge in the closed position vessels could only transit at greater than half tide because of shoaling. To facilitate marine access during the reconstruction period, the Army Corps of Engineers dredged the Bronx River in fiscal year 1986. According to the Army Corps of Engineers, the waterway in the vicinity of the bridge has been dredged to 11-12 feet at mean low water.

The operators of one of the upstream facilities, Transit Mix Concrete, stopped operating the business on 19 August 1987 and are now offering the business for sale. The bridge owner has advised prospective owners of the proposed bridge closure. Except for vessels formerly associated with Transit Mix Concrete, the only vessel known to transit the Bronx River upstream of the Eastern Boulevard bridge is the fishing vessel "BRONX QUEEN."

BRONX QUEEN has a six foot draft and according to her captain, BRONX QUEEN can pass beneath the center of the closed bascule spans with a vertical clearance of two to three feet above the vessel's radar arm at mean high water. The BRONX QUEEN and other mariners may not be able to pass under the bridge if the contractors' scaffolding or platforms were to hang beneath the bridge. Therefore, the contractor will be required to raise any scaffolding within 30 minutes of a request from a mariner. Additionally, the contractors will be required to raise or remove all scaffolding or other obstructions that hang beneath the bridge during the contractors' non-working hours.

The 1986, 1987, and 1988 bridge opening logs indicate 240 35, and 3 commercial vessel openings

respectively; 109, 65, and 95 openings for test or repairs; and no recorded openings for pleasure craft. The drop in commercial vessel openings is directly related to the closing and inactivity of the Transit Mix Concrete facility.

#### Economic Assessment And Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulations, and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. With the completed dredging of the Bronx River in the vicinity of the bridge, approval of this temporary regulation change will not prevent mariners from transiting the bridges but will only require advance planning. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that if adopted, it will not have a significant economic impact on a substantial number of small entities.

#### Federalism Implication Assessment

This action has been analyzed under the principles and criteria in Executive Order 12612, and it has been determined that this proposed rule does not have sufficient federalism implications to warrant preparation of a federal assessment.

#### List of Subjects in 33 CFR Part 117

Bridges.

#### Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations as follows:

#### PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g).

2. Section 117.771 is revised to read as follows:

##### § 117.771 Bronx River.

(a) The draw of the Bruckner Boulevard highway bridge mile 1.1 at New York City shall open on signal; except that, from 7 a.m. to 9 a.m. and 4 p.m. to 6 p.m. Monday through Friday, the draws need not be opened for the passage of vessels. Public vessels of the United States, state or local vessels used

for public safety and vessels in distress shall be passed without delay.

(b) The draw of the Conrail bridge, mile 1.6 at New York City, need not be opened for the passage of vessels.

(c) The owner of the Bruckner Boulevard highway bridge mile 1.1 and the Conrail bridge mile 1.6 both at New York City shall provide and keep in good legible condition two clearance gages designed, installed and maintained according to the provisions of Part 118.160 of this chapter.

(d) Repair of Bruckner Boulevard Highway Bridge. The draw of the Bruckner Boulevard highway bridge, mile 1.1 at New York City, need not be opened for the passage of any vessel from 9 a.m., April 9, 1989 through 5 p.m., April 9, 1992 to effect repair and reconstruction of the bridge.

Dated: February 16, 1989.

R.I. Rybacki,

Rear Admiral, U.S. Coast Guard,  
Commander, First Coast Guard District,  
[FR Doc. 89-4641 Filed 2-27-89; 8:45 am]

BILLING CODE 4910-14-M

#### LIBRARY OF CONGRESS

##### Copyright Office

##### 37 CFR Part 201

[Docket No. RM 88-8]

##### Statements of Account and Filing Requirements for Satellite Carrier Statutory License

AGENCY: Copyright Office, Library of Congress.

ACTION: Proposed rules.

SUMMARY: The recently enacted "Satellite Home Viewer Act of 1988," in a new section 119 of the Copyright Act, title 17 U.S. Code, creates a statutory license for certain secondary transmissions made by satellite carriers to satellite home dish owners for private viewing. The new satellite carrier compulsory license requires the filing of statements of account by those parties availing themselves of the license, as well as the payment of royalty fees. The Copyright Office is proposing filing requirements for the satellite carrier statutory license and invites interested parties to comment on the proposed regulations.

DATE: Comments should be submitted on or before March 30, 1989.

ADDRESS: Interested parties should submit ten copies of their written comments to: Office of the General Counsel, Copyright Office, Library of



Congress, Department 17, Washington, DC 20540, or if by hand to: Office of the General Counsel, James Madison Memorial Building, Room 407, First and Independence Avenue, SE., Washington, DC 20540.

#### FOR FURTHER INFORMATION CONTACT:

Dorothy Schrader, General Counsel, Copyright Office, Library of Congress, Washington, DC 20559. Telephone (202) 707-8380.

#### SUPPLEMENTARY INFORMATION: The

"Satellite Home Viewer Act of 1988," Pub. L. 100-667, amended the Copyright Act, title 17 of the United States Code by creating a new statutory license for certain secondary transmissions made by satellite carriers to satellite home dish owners. As of January 1, 1989, satellite carriers will be permitted, pursuant to the new 17 U.S.C. section 119 license, to make secondary transmissions of "superstation" and network station signals to satellite home dish owners for private home viewing upon payment of a statutory royalty fee and satisfaction of certain other conditions. The royalty fee provisions of section 119 will end in four years, and will be replaced by privately negotiated licenses or an arbitrated fee on or before December 31, 1992. The entire Satellite Home Viewer Act itself terminates on December 31, 1994.

The Office is proposing regulations which would describe the content and nature of the required satellite carrier filings. Those satellite carriers who, pursuant to the new Act, negotiate private copyright licenses and agreements for secondary transmissions of superstation and network station signals to satellite home dish owners will not be affected by the proposed regulations.

#### 1. Summary of the Satellite Carrier Statutory License

Subject to particularized conditions and limitations provided for in new section 119 of the Copyright Act of 1976, the new satellite carrier statutory license permits, upon payment of a royalty fee and compliance with the filing requirements, secondary transmission of "superstation" and network station signals to satellite home dish owners (or to a distributor that has contracted with the satellite carrier to provide the signals to satellite home dish owners) provided that such signals are for private home viewing. Secondary transmission of network signals is subject to specific limitations and filing procedures which do not apply to secondary transmission of "superstation" signals.

In general, secondary transmissions of network station signals to private home viewers under the statutory license may only be made to those viewers who reside in "unserved households." An unserved household is defined in section 119(d)(10) as being a household which cannot receive a particular primary network station signal of over-the-air grade B intensity (as defined by the Federal Communications Commission) or, within 90 days before the date on which the household subscribes to the satellite carrier service, has not received that network station signal through subscription to a cable system. If a satellite carrier provides an unserved household with a network station signal pursuant to the statutory license, it must submit to the network that owns or is affiliated with the network station transmitted a list of names and addresses of all subscribers which receive that signal. This list must be provided 90 days after January 1, 1989 or 90 days after commencing such secondary transmissions, whichever is later. The list must be updated by the satellite carrier on the 15th of each month by submitting a list to the network of names and addresses of any subscribers added or deleted.

The networks, on their part, are required to submit to the Register of Copyrights, for placement in a public file, a name and address of the person to whom the satellite carrier lists should be provided. Failure by a satellite carrier to provide a list of subscribers and monthly updates to the proper network constitutes an infringement of copyright subject to the remedies of the Copyright Act.

As with the cable compulsory license, the satellite carrier license requires the payment of a royalty fee. Section 119 provides for a monthly statutory royalty fee of twelve cents per subscriber per superstation received from a satellite carrier, and three cents per subscriber for each network station signal received by the subscriber. Although private agreements as to the royalty fee may be negotiated at any time, the statutory royalty fee will end on December 31, 1992. On or before July 1, 1991, the Copyright Royalty Tribunal will publish notice in the Federal Register of the initiation of voluntary negotiation proceedings for the purpose of determining the royalty fee to be paid by satellite carriers. Voluntary agreements must be filed with the Register of Copyrights 30 days after execution. On or before December 31, 1991, the Copyright Royalty Tribunal will publish notice of the initiation of arbitration proceedings for those parties not

already subject to a voluntary agreement. An Arbitration Panel will be chosen which shall, after appropriate proceedings, submit a report to the Tribunal recommending the proper royalty fee. Once accepted by the Tribunal, the fee becomes binding upon all parties not then subject to a voluntary agreement. This fee shall remain in effect until December 31, 1994 when all the provisions of section 119 expire.

Besides providing the mechanism of the statutory license, the Satellite Home Viewer Act contains other significant features. New copyright remedies and penalties for individual as well as patterns of violations of the statutory license are established. Section 705 of the Communications Act of 1934 is amended to provide additional remedies and penalties for the piracy of satellite cable programming. Also made actionable are acts of unlawful discrimination by a satellite carrier against distributors of their signals to satellite home dish owners. The Federal Communications Commission will conduct an inquiry regarding the extent of discrimination against distributors by satellite carriers, as well as inquiries examining the need for a universal encryption standard that permits decryption of satellite cable programming, and the need for syndicated exclusivity rules in the home satellite dish market. Finally, the Copyright Royalty Tribunal will distribute the royalties collected under the satellite carrier statutory license to the owners of the retransmitted programming.

#### 2. Statutory License Filing Requirements

The Copyright Office notifies the public as to the following filing requirements for the satellite carrier statutory license:

(1) *Network Name and Address File.* Commencing January 1, 1989, a public file will be opened in the Licensing Division of the Copyright Office for the purpose of receiving network names and addresses as required by Section 119(a)(2)(C). The network notice should contain the name of the network, the contact person, a full mailing address and phone number. The notices should be sent to Walter Sampson, Chief of Licensing Division, Copyright Office, Library of Congress, Washington, DC 20557 or, if hand delivered, Licensing Division, Madison Building, room LM-458, 101 Independence Avenue, SE., Washington, DC 20557 for placement in the public file.



As explained in the legislative history,<sup>1</sup> the reference to "network stations" means exclusively those stations owned by or affiliated with the three major commercial networks (ABC, CBS, and NBC) and the stations associated with the Public Broadcasting Service. Any other broadcast station would be classified as a "superstation" if retransmitted by a satellite carrier for private home viewing.

(2) *Satellite Carrier Voluntary Agreement File.* Also commencing January 1, 1989, the Copyright Office will be open a public file for voluntary royalty fee agreements in accordance with section 119(c)(2)(C). The file will be located in the Licensing Division of the Copyright Office. One complete copy of an agreement, required to be submitted 30 days after execution, should be sent to: Walter Sampson, Chief of Licensing Division, Copyright Office, Library of Congress, Washington, DC 20557 or, if hand delivered, Licensing Division, Madison Building, Room LM-458, 101 Independence Avenue, SE., Washington, DC 20557.

(3) *Satellite Carrier Statements of Account.* The Copyright Office proposes to implement the following statement of account procedures. Like the cable compulsory license, royalties will be collected on a semiannual basis with accounting periods running from January 1, to June 30, and July 1, to December 31 of each year. Unlike the cable compulsory license, royalties will be calculated for each six month period on a monthly basis, and must be submitted, along with the statement of account forms, one month after the closing date of the accounting period. Thus, royalties and statements of account will be due on January 31, and July 31 of each year for the preceding six-month period. The first filing deadline for the satellite carrier license will be July 31, 1989.

Statement of account forms will be available to the public by May of 1989. They may be obtained by writing the Licensing Division of the Copyright Office, Library of Congress, Washington, D.C. 20557, Telephone No. (202) 707-8150.

Although the statement of account forms have not been prepared in final form, the Copyright Office in this notice proposes regulations establishing the types of information that, if the regulations are adopted, would be requested on the form.

The royalty fee will be calculated on a monthly basis. Thus, any subscribers receiving a television station signal for any period of each month must be

included in the monthly calculation for that signal. For example, if a new subscriber begins receipt of a network signal on March 31, a royalty must be paid for that subscriber for the entire month of March. The statement of account form would contain spaces for the calculation of monthly subscriber totals for each of the six months of the accounting period, plus space for calculation of the total royalty fee.

Satellite carriers would be expected, aside from basic information regarding the identification and operation of the carrier, to provide the number of subscribers to a signal (either network or superstation) for each month, and the identity of the particular station provided. The Copyright Office will probably not require names or addresses of particular subscribers, as are required to be provided to networks in the case of carriage of network signals.

As provided in the Satellite Home Viewer Act (amendment of section 111(d)(1)(A)), any amounts collected from subscribers for secondary transmissions for private home viewing pursuant to section 119 may be excluded from the determination of gross receipts received by a cable system for the basic service of providing secondary transmissions of primary broadcast transmitters. This provision contemplates the situation wherein the same entity may be offering both satellite and cable reception of secondary transmissions of primary broadcast transmitters. Separate records should be maintained of the subscriber fees received for the satellite carrier retransmissions.

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#### Regulatory Flexibility Act Statement

With respect to the Regulatory Flexibility Act, the Copyright Office takes the position that this act does not apply to Copyright Office rulemaking. The Copyright Office is a department of the Library of Congress, which is part of the legislative branch. Neither the Library of Congress nor the Copyright Office is an "agency" within the meaning of the Administrative Procedure Act of June 11, 1946, as amended (title 5 Chapter 5 of the U.S. Code, Subchapter II and Chapter 7). The Regulatory Flexibility Act consequently does not apply to the Copyright Office since the Act affects only those entities of the Federal Government that are agencies as defined in the Administrative Procedure Act.<sup>2</sup>

<sup>2</sup> The Copyright Office was not subject to the Administrative Procedure Act before 1978, and is now subject to it only in areas specified by section

Alternatively, if it is later determined by a court of competent jurisdiction that the Copyright Office is an "agency" subject to the Regulatory Flexibility Act, the Register of Copyrights has determined and hereby certifies that this regulation will have no significant impact on small businesses.

#### List of Subjects in 37 CFR Part 201

Satellite Carrier License.

#### Proposed Regulations

In consideration of the foregoing, Part 201 of 37 CFR, Chapter II is proposed to be amended in the manner set forth below.

#### PART 201—[AMENDED]

1. The authority citation for Part 201 would be revised to read as follows:

Authority: Copyright Act, Pub. L. 94-553, 90 Stat. 2541 (17 U.S.C. 702), as amended by Pub. L. 100-667.

2. Section 201.11 would be added to read as follows:

#### § 201.11 Satellite Carrier Statements of Account covering statutory licenses for secondary transmissions for private home viewing.

(a) *General.* This section prescribes rules pertaining to the deposit of Statements of Account and royalty fees in the Copyright Office as required by the satellite carrier license of section 119(b)(1) of Title 17 of the United States Code, as amended by Pub. L. 100-667, in order that certain secondary transmissions by satellite carriers for private home viewing be subject to statutory licensing.

(b) *Definitions.* (1) The terms "distributor," "network station," "private home viewing," "satellite carrier," "subscriber," "superstation," and "unserved household" have the meanings set forth in section 119(d) of title 17 of the United States Code, as amended by Pub. L. 100-667.

(2) The terms "primary transmission" and "secondary transmission" have the meanings set forth in section 111(f) of title 17 of the United States Code.

(c) *Accounting periods and deposit.* (1) Statements of Account shall cover semiannual accounting periods of (i) January 1 through June 30, and (ii) July 1 through December 31, and shall be

701(d) of the Copyright Act (i.e., "all actions taken by the register of Copyrights under this title (17), except with respect to the making of copies of copyright deposits"). (17 U.S.C. 706(b)). The Copyright Act does not make the Office an "agency" as defined in the Administrative Procedure Act. For example, personnel actions taken by the Office are not subject to APA-FOIA requirements.

<sup>1</sup> 134 Cong. Rec. 10426, 100th Cong., 2d Sess. (October 19, 1988)



deposited in the Copyright Office, together with the total statutory royalty fee or the confirmed arbitration royalty fee for such accounting periods as prescribed by section 119(b)(1)(B) and (c)(3) of title 17, by not later than July 31, if the Statement of Account covers the January 1 through June 30 accounting period, and by not later than the immediately following January 31, if the Statement of Account covers the July 1 through December 31 accounting period.

(2) Upon receiving a Statement of Account and royalty fee, the Copyright Office will make an official record of the actual date when such statement and fee were physically received in the Copyright Office. Thereafter, the Licensing Division of the Copyright Office will examine the statement and fee for obvious errors or omissions appearing on the face of the documents, and will require that any such obvious errors or omissions be corrected before final processing of the documents is completed. If, as the result of communications between the Copyright Office and the satellite carrier, an additional fee is deposited or charges or additions are made in the Statement of Account, the date that additional deposit or information was actually received in the Office will be added to the official record of the case. However, completion by the Copyright Office of the final processing of a Statement of Account and royalty fee deposit shall establish only the fact of such completion and the date or dates of receipt shown in the official record. It shall in no case be considered a determination that the Statement of Account was, in fact, properly prepared and accurate, that the correct amount of the royalty fee had been deposited, that the statutory time limits for filing had been met, or that any other requirements to qualify for a statutory license have been satisfied.

(3) Statements of Account and royalty fees received before the end of the particular accounting period they purport to cover will not be processed by the Copyright Office. Statements of Account and royalty fees received after the filing deadlines of July 31 or January 31, respectively, will be accepted for whatever legal effect they may have, if any.

(d) *Forms.* (1) Each Statement of Account shall be furnished on an appropriate form prescribed by the Copyright Office, and shall contain the information required by that form and its accompanying instructions. Computation of the copyright royalty fee shall be in accordance with the procedures set forth in the forms. Copies

of Statement of Account forms are available free upon request to the Licensing Division, United States Copyright Office, Library of Congress, Washington, DC 20557.

(2) The form prescribed by the Copyright Office is designated "Statement of Account for Secondary Transmissions by Satellite Carriers to Home Viewers."

(e) *Contents.* Each Statement of Account shall contain the following information:

(1) A clear designation of the accounting period covered by the Statement.

(2) The designation "Owner," followed by: (i) The full legal name of the satellite carrier. If the owner is a partnership, the name of the partnership is to be followed by the name of at least one individual partner; (ii) Any other name or names under which the owner conducts the business of the satellite carrier; and (iii) The full mailing address of the owner. Ownership, other names under which the owner conducts the business of the satellite carrier, and the owner's mailing address shall reflect facts existing on the last day of the accounting period covered by the Statement of Account.

(3) The designation "Primary Transmitters," followed by the call signs, broadcast channel numbers, station locations (city and state of license), and a notation whether that primary transmitter is a "superstation" or "network station" transmitted to any or all of the subscribers of the satellite carrier during any portion of the period covered by the Statement of Account.

(4) The designation "Superstations," followed by:

(i) The call sign of each superstation signal carried for each month of the period covered by the Statement, and

(ii) The total number of subscribers to each superstation for each month of the period covered by the Statement.

(5) The designation "Network Stations," followed by:

(i) The call sign of each network station carried for each month of the period covered by the Statement, and

(ii) The total number of subscribers to each network station for each month of the period covered by the Statement.

(6) The total number of subscribers to each superstation for the six-month period covered by the Statement multiplied by the statutory royalty rate of twelve (12) cents per subscriber (or in lieu thereof, the arbitrated rate, if applicable).

(7) The total number of subscribers to each network station for the six-month period covered by the Statement

multiplied by the statutory royalty rate of three (3) cents per subscriber (or, in lieu thereof, the arbitrated rate, if applicable).

(8) The name, address, business title, and telephone number of the individual or individuals to be contacted for information or questions concerning the content of the Statement of Account.

(9) The handwritten signature of:

(i) The owner of the satellite carrier or a duly authorized agent of the owner, if the owner is not a partnership or a corporation; or

(ii) A partner, if the owner is a partnership; or

(iii) An officer of the corporation, if the owner is a corporation. The signature shall be accompanied by:

(A) The printed or typewritten name of the person signing the Statement of Account;

(B) The date of signature;

(C) If the owner of the satellite carrier is a partnership or a corporation, by the title or official position held in the partnership or corporation by the person signing the Statement of Account;

(D) A certification of the capacity of the person signing; and

(E) The following statement: I have examined this Statement of Account and hereby declare under penalty of law that all statements of fact contained herein are true, complete, and correct to the best of my knowledge, information, and belief, and are made in good faith.

[18 U.S.C., section 1001 (1986)]

(f) *Royalty fee payment.* The royalty fee payable for the period covered by the Statement of Account shall accompany that Statement of Account, and shall be deposited at the Copyright Office with it. Payment must be in the form of a certified check, cashier's check, or money order, payable to: Register of Copyrights.

(g) *Corrections, supplemental payments, and refunds.* (1) Upon compliance with the procedures and within the time limits set forth in paragraph (g)(3) of this section, corrections to Statements of Account will be placed on record, supplemental royalty fee payments will be received for deposit, or refunds will be issued, in the following cases:

(i) Where, with respect to the accounting period covered by a Statement of Account, any of the information given in the Statement filed in the Copyright Office is incorrect or incomplete; or

(ii) Where calculation of the royalty fee payable for a particular accounting period was incorrect, and the amount deposited in the Copyright Office for



that period was either too high or too low.

(2) Corrections to Statements of Account will not be placed on record, supplemental royalty fee payments will not be received for deposit, and refunds will not be issued, where the information in the Statements of Account, the royalty fee calculations, or the payments were correct as of the date on which the accounting period ended, but changes (for example, addition or deletion of a signal) took place later.

(3) Requests that corrections to a Statement of Account be placed on record, that fee payments be accepted, or requests for the issuance of refunds, shall be made only in the cases mentioned in paragraph (g)(1) of this section. Such requests shall be addressed to the Licensing Division of the Copyright Office, and shall meet the following conditions:

(i) The request must be in writing, must clearly identify its purpose, and, in the case of a request for a refund, must be received in the Copyright Office before the expiration of 30 days from the last day of the applicable Statement of Account filing period, as provided for in paragraph (c)(1) of this section. A request made by telephone or by telegraphic or similar unsigned communication, will be considered to meet this requirement if it clearly identifies the basis of the request, if it is received in the Copyright Office within the required 30-day period, and if a written request meeting all the conditions of this paragraph (g)(3) is also received in the Copyright Office within 14 days after the end of such 30-day period;

(ii) The Statement of Account to which the request pertains must be sufficiently identified in the request (by inclusion of the name of the owner of the satellite carrier and the accounting period in question) so that it can be readily located in the records of the Copyright Office;

(iii) The request must contain a clear statement of the facts on which it is based, in accordance with the following requirements:

(A) In the case of a request filed under paragraph (g)(1)(i) of this section, where the information given in the Statement of Account is incorrect or incomplete, the request must clearly identify the erroneous or incomplete information and provide the correct or additional information;

(B) In the case of a request filed under paragraph (g)(1)(ii) of this section, where the royalty fee was miscalculated and the amount deposited in the Copyright Office was either too high or too low, the request must be accompanied with

an affidavit under the official seal of any officer authorized to administer oaths within the United States, or a statement in accordance with section 1746 of Title 28 of the United States Code, made and signed in accordance with paragraph (e)(14) of this section. The affidavit or statement shall describe the reasons why the royalty fee was improperly calculated and include a detailed analysis of the proper royalty calculation.

(iv)(A) All requests filed under this paragraph (g) must be accompanied by a filing fee in the amount of \$15 for each Statement of Account involved. Payment of this fee may be in the form of a personal or company check, or of a certified check, cashier's check or money order, payable to: Register of Copyrights. No request will be processed until the appropriate filing fees are received.

(B) All requests that a supplemental royalty fee payment be received for deposit under this paragraph (g), must be accompanied by a remittance in the full amount of such fee. Payment of the supplemental royalty fee must be in the form of a certified check, cashier's check, or money order, payable to: Register of Copyrights. No such request will be processed until an acceptable remittance in the full amount of the supplemental royalty fee has been received.

(v) All requests submitted under this paragraph (g) must be signed by the satellite carrier owner named in the Statement of Account, or the duly authorized agent of the owner, in accordance with paragraph (e)(10) of this section.

(vi) A request for a refund is not necessary where the Licensing Division, during its examination of a Statement of Account or related document, discovers an error that has resulted in a royalty overpayment. In this case, the Licensing Division will forward the royalty refund to the satellite carrier owner named in the Statement of Account without regard to the time limitations provided for in paragraph (g)(3)(i) of this section.

(4) Following final processing, all requests submitted under this paragraph (g) will be filed with the original Statement of Account in the records of the Copyright Office. Nothing contained in this paragraph shall be considered to relieve satellite carriers from their full obligations under Title 17 of the United States Code, and the filing of a correction or supplemental payment shall have only such effect as may be attributed to it by a court of competent jurisdiction.

Dated: February 13, 1989.

Ralph Oman,

Register of Copyrights.

Approved by:

James H. Billington,

The Librarian of Congress.

[FR Doc. 89-4485 Filed 2-27-89; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[FRL-3529-7]

### Approval and Promulgation of Implementation Plans; Michigan

**AGENCY:** U.S. Environmental Protection Agency (USEPA).

**ACTION:** Proposed rulemaking.

**SUMMARY:** USEPA is proposing to approve certain portions and disapprove other portions of the State of Michigan's submittal of revised particulate regulations applicable to iron and steel sources.

On May 22, 1981, USEPA conditionally approved Michigan's overall particulate control strategy for the Wayne County primary nonattainment area with respect to iron and steel sources. The conditional approval was based on a commitment by the State to adopt and submit rules for the iron and steel sources which reflect reasonably available control technology (RACT). These revisions were submitted to satisfy conditions of USEPA's approval of the State's Part D total suspended particulates (TSP) plan which calls for RACT-level emission limits.

USEPA revised the particulate matter standard on July 1, 1987, (52 FR 24634) and eliminated the TSP ambient air quality standard. The revised standard is expressed in terms of particulate matter with a nominal diameter of 10 micrometers or less (PM<sub>10</sub>). However, at the State's option, EPA is continuing to process SIP revisions which were in process at the time the new PM<sub>10</sub> standard was promulgated. In the policy, published on July 1, 1987, (p. 24679, column 2), USEPA stated that it would regard existing TSP SIPs as necessary interim particulate matter plans during the period preceeding the approval of State plans specifically aimed at attaining the PM<sub>10</sub> national ambient air quality standards (NAAQS).

**DATE:** USEPA must receive comments on or before May 1, 1989.



**ADDRESSES:** Written comments on this revision and on the proposed USEPA action should be sent to: (Please submit an original and five copies, if possible): Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

Copies of the SIP revision are available at the following addresses for review (it is recommended that you telephone Ms. Toni Lesser, at (312) 886-6037, before visiting the Region V office):

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch (5AR-26), 230 South Dearborn Street, Chicago, Illinois 60604

Michigan Department of Natural Resources, Air Quality Division, Stevens T. Mason Building, 530 West Allegan, Lansing, Michigan 48909.

**FOR FURTHER INFORMATION CONTACT:**

Ms. Toni Lesser, Michigan Regulatory Specialist, (312) 886-6037.

**SUPPLEMENTARY INFORMATION:**

**Background**

On April 25, 1979, the State of Michigan submitted a portion of its revised State Implementation Plan (SIP) to USEPA to satisfy the requirements of Part D of the Clean Air Act (CAA). The submittal included the State's proposed control strategy to attain the TSP NAAQS in areas designated nonattainment for the TSP pollutant.

On August 13, 1979 (44 FR 47350), USEPA published a notice of proposed rulemaking for Michigan's particulate SIP but did not discuss or solicit public comments on the State's strategy for controlling particulate emissions from iron and steel sources. On May 6, 1980 (45 FR 29802), USEPA published a notice of final rulemaking which took no action on the control strategy for particulates in those areas which were designated nonattainment for TSP and contained iron and steel sources.

On September 9, 1980 (45 FR 59329), USEPA published a notice of proposed rulemaking that identified deficiencies in Michigan's strategy for iron and steel sources and requested a schedule for correcting the noted deficiencies.

On May 22, 1981 (46 FR 27923), USEPA published a notice of final rulemaking which conditionally approved 14 elements of Michigan's Part D TSP SIP, consisting of an overall TSP control strategy for the Wayne County primary nonattainment area with respect to iron and steel sources. The conditional approval was based, in part, on a

commitment by the State to adopt and submit additional or revised rules that reflect RACT for certain iron and steel sources. RACT-level emission limits and, in some cases, enforceability revisions or clarifications, were required for full USEPA approval. In addition, USEPA's May 22, 1981, final rulemaking action disapproved Michigan's Rule 336.1331, Table 31, Item C for: (1) Open Hearth Furnaces, (2) Basic Oxygen Furnaces, (3) Electric Arc Furnaces, (4) Sintering Plants, (5) Blast Furnaces, and (6) Heating and Reheating Furnaces.

On May 10, 1984, and May 24, 1984, the State of Michigan submitted draft regulations to USEPA containing proposed revisions to the iron and steel particulate regulations. The submittal of May 10, 1984, contained proposed iron and steel particulate revisions for Parts 1, 3, and 10 of Michigan's Administrative Rules governing air pollution control (Act 348 of 1967, as amended) applicable to iron and steel sources.

The submittal of May 24, 1984, contained additional proposed revisions to the iron and steel regulations and also included proposed new source review (NSR) and volatile organic compound (VOC) rule revisions. USEPA will take action on the proposed NSR and VOC regulations in a separate rulemaking action.

On May 17, 1985, the State of Michigan submitted final rules for the control of particulate matter from iron and steel sources. These revised rules were effective at the State level on February 22, 1985. The majority of the revisions in the May 17, 1985, submittal were in response to USEPA's conditional approval elements which relate to the State's commitments to correct the deficiencies and adopt emission limits that represent RACT for iron and steel sources in particulate nonattainment areas.

Historically, USEPA reviewed previous drafts of the revisions to the iron and steel regulations prior to the State's May 1984 draft submittal and provided the State with comments, recommendations and guidance in letters dated June 23, 1983, July 8, 1983, August 31, 1983, March 7, 1984, March 8, 1985 and January 2, 1986. USEPA's technical review of Michigan's May 10, 1984, and May 24, 1984, draft revisions and May 17, 1985, final submittal are contained in technical support documents (TSD's) dated August 5, 1984, September 5, 1984, September 26, 1984, September 5, 1985 and December 26, 1985. In addition, a discussion of USEPA's revised particulates matter standard is provided at the end of this notice.

Presented below is a summary of USEPA's final rulemaking (FR) action of May 22, 1981 (46 FR 27923), the State of Michigan's interim rulemaking actions, and USEPA's proposed rulemaking (PR) action which is the subject of today's notice.

**General Provisions**

Michigan submitted new and modified rules 336.1101; 336.1103; 336.1106; 336.1116; 336.1119; and 336.1122. These are definition rules which may also be applicable to VOC and NSR sources. The State incorporated USEPA recommendations into the May 17, 1985, revised SIP submittal. As a result, USEPA proposes to approve the following definitions exclusively as they apply to iron and steel sources.

R336.1101—USEPA proposes to approve definitions "A"

R336.1103—USEPA proposes to approve definitions "C"

R336.1106—USEPA proposes to approve definitions "F"

R336.1116—USEPA proposes to approve definitions "P"

R336.1119—USEPA proposes to approve definitions "S"

R336.1122—USEPA proposes to approve definitions "V"

**Rule 336.1301—General Opacity**

**FR Action:** USEPA's May 21, 1981, notice approved Michigan's Rule 336.1301 as it applies to iron and steel sources, since the rule together with approvable mass emission rules was believed to be acceptable as RACT.

Michigan's current federally-approved SIP with respect to opacity limits represents RACT for the process source categories of: lime plants, grain terminals, gray iron foundries, steel foundries, secondary metal processing plants, ferroalloy production, and galvanizing plants. Under Michigan's existing opacity SIP, any instantaneous reading over 40 percent is a violation. In addition, an aggregate of 13 readings in an hour over 20 percent is a violation.

**State Action:** On May 17, 1985, Michigan submitted a revised R336.1301 which applies to all industrial sources including iron and steel sources for which there are no specific opacity limitations provided for in Michigan Rules 336.1351 through 336.1367. Revised R336.1301, Subrule (1) proposes an opacity limit of 20 percent (6-minute average) with one 6-minute average per hour up to 27 percent opacity.

**PR Action:** USEPA proposes to disapprove the revised version of Michigan's Rule 336.1301, because it is a relaxation from the present SIP for intermittent and short-term non-stack



source emissions which cannot be mass-tested by USEPA-approved methods. In addition, the State of Michigan failed to demonstrate that such a relaxation will not cause or contribute to violation of the NAAQS for particulate matter.

The current federally-approved SIP is Michigan's Rule 336.1301, which states that visible emissions are not to exceed 20 percent opacity at any time except for 3 minutes per hour, and then not to exceed 40 percent opacity, would continue to apply to stack and non-stack process sources.

#### Rule 336.1331—Emission of Particulate Matter

**FR Action:** USEPA's May 21, 1981, notice took action disapproving specific emission limitations contained in Tables 31 and 32 of R336.1331.

**State Action:** Michigan revised R336.1331 but did not incorporate USEPA's recommended emission limits for various elements. Revised R336.1331 contains a particulate matter emissions schedule for the following categories:

- Fuel Burning Equipment
- Incinerators
- Steel Manufacturing
- Ferrous Cupola Foundry Operations
- Chemical and Mineral Kilns
- Asphalt Paving Plant
- Cement Manufacture
- Iron Ore Pelletizing
- Fertilizer Plants
- Exhaust Systems (serving material handling equipment not listed in R336.1331, Table 31)

**PR Action:** USEPA is today proposing to approve portions and disapprove other portions of Michigan's revised Rule 336.1331. USEPA proposes to disapprove the rule with respect to the argon-oxygen decarburization (AOD), basic oxygen furnace (BOF) secondary control devices, hot metal transfer (HMT) operations and hot metal desulfurization (HMD) operations, because the State has not demonstrated the emission limits to be RACT. USEPA recommends the following mass limitations or their equivalent be included in Table 31:

- BOF secondary control devices, 0.010 gr/dscf\*
- HMT operations, 0.010 gr/dscf
- HMD operations, 0.010 gr/dscf
- AOD secondary control devices, 0.005 gr/dscf

EPA will approve an alternate RACT determination as long as the State shows that they will satisfy CAA RACT requirements based on adequate

documentation in the Economic Technical Feasibility Study.

#### Rule 336.1331—Table 31, Item C

##### 1. Open Hearth Furnaces

**FR Action:** USEPA disapproved the State's proposed emission limitation for open hearth furnaces which changed the State limit from 0.15 pounds of particulate per 1,000 pounds of gas to 0.10 pounds of particulate per 1,000 pounds of gas because this limit was still less stringent than RACT.

**State Action:** Michigan deleted this limitation.

**PR Action:** USEPA proposes approval of Michigan's revised emission limitation deletion, because none of these sources exists in Michigan. If any new sources develop they will fall under new source review which would require emission to be controlled to a RACT level or better.

##### 2. Basic Oxygen Furnaces

**FR Action:** USEPA disapproved the State's proposed emission limitation for basic oxygen furnace primary and secondary emissions. Michigan proposed to decrease allowable emissions from 0.15 pounds of particulate per 1,000 pounds of gas (0.078 gr/dscf) to 0.10 pounds of particulate per 1,000 pounds of gas (0.053 gr/dscf). This new limit was determined to be still less stringent than RACT.

**State Action:** Michigan decreased its limits to 0.057 lbs. particulate per 1000 lbs. of gas at the outlet of the primary control device and 0.038 lbs. of particulate per 1000 pounds of gas at the outlet of the secondary control device.

**PR Action:** While USEPA proposes approval of Michigan's revised emission limit for BOF primary control devices, USEPA is today proposing disapproval of its revised emission limit for secondary control devices, because Michigan has failed to provide a RACT level limit for BOF secondary control devices. USEPA has determined RACT for this source to be 0.020 lbs. of particulate per 1000 lbs. of flue gas (0.10 gr/dscf). USEPA has provided Michigan with his determination in its guidance to the State.

##### 3. Electric Arc Furnaces

**FR Action:** USEPA disapproved the State's proposal to revise the emission limitation for electric arc furnaces from 0.15 pounds of particulate per 1,000 pound of gas (0.078 gr/dscf) to 0.10 pounds of particulate per 1,000 pounds of gas (0.053 gr/dscf). USEPA recommended that the State adopt a limit of 0.005 to 0.030 gr/dscf of gas from electric arc furnace primary control

devices. USEPA also recommended RACT level outlet concentrations for secondary control devices of between 0.005 and 0.020 gr/dscf.

**State Action:** Michigan revised the emission limit for electric arc furnaces to reflect mass emission limits of 0.057 lbs. particulate/1000 lbs gas (0.03 gr/dscf) at primary control devices and 0.010 lbs/1000 gas (0.005 gr/dscf) from secondary control devices.

**PR Action:** USEPA is today proposing approval of both these revised limitations.

##### 4. Sintering Plants

**FR Action:** USEPA disapproved Michigan's R336.1331 with respect to Sintering Plants on May 21, 1981 (46 FR 27923), leaving the existing federally-approved emission limitation for sintering plants at 0.20 pounds of particulate per 1,000 pounds of gas (0.10 gr/dscf).

**State Action:** Michigan submitted a revised Rule 336.1331 with a mass emission limit of 0.125 pounds of particulate per 1,000 of exhaust gas for the Great Lakes Steel (GLS) sinter plant. This limit is contained in Table 31 of R336.1331. GLS has the only sinter plant in the State of Michigan. This submittal represents a site-specific RACT determination by the State of Michigan for the GLS sinter plant. The emission rate of 0.125 lb/1000 lbs of exhaust gas represents a combined limit for the windbox and discharge end emissions on existing control equipment. USEPA's RACT guideline levels for these sources for 0.067 and 0.038 lbs/1000 lbs flue gas for the windbox and discharge end, respectively. The State indicated that USEPA's suggested RACT limits for sinter plant sources are not appropriate because of the design and operation of the GLS sinter plant. The discharge end gases are recycled to the sinter strand which necessitates the need for a combined (windbox and discharge) limit. The State submitted justification to USEPA to support the proposed RACT limit of 0.125 lb/1000 flue gas. The justification was prepared in accordance with guidance provided by USEPA, Region V.

**PR Action:** USEPA has reviewed the State of Michigan's submittal for a sinter plant site-specific RACT determination (Rule 336.1331) and is today proposing approval of a particulate mass emission limit of 0.125 pounds of particulate per 1000 pounds of exhaust gas, which a combined windbox and discharge limit for the GLS sinter plant. USEPA believes the State has supplied an adequate demonstration that this limit represents RACT for this source.

\* 1.0 gr/dscf (grains per dry standard cubic foot) = approximately 0.53 lb/1000 lb. F.G. (flue gas)



### 5. Blast Furnaces

**FR Action:** USEPA disapproved Michigan's proposed retention of its old 0.15 pounds of particulate per 1,000 pounds of flue gas (0.078 gr/dscf) emission limitation for blast furnaces, citing data in the rulemaking docket (that was collected by USEPA) to support a 0.02 lb particulate/1000 pounds of gas (0.01 gr/dscf) emission limit for casthouse cleaning devices.

**State Action:** Michigan adopted a 0.02 lb. particulate/1000 lbs. of gas emission limitation for casthouse air cleaning devices.

**Proposed Action:** USEPA proposes approval of this limitation.

### 6. Heating and Reheating furnaces

**FR Action:** USEPA disapproved Michigan's proposed retention of its 0.30 lb. particulate/1000 lbs. of gas (0.16 gr/dscf) emission limitation for heating and reheating furnaces, citing data (collected by USEPA) in the rulemaking docket to support a limit of no greater than 0.02 lb. particulate/1000 lb. of gas (0.01 gr/dscf).

**State Action:** Michigan deleted the 0.30 lb. particulate/1000 lb. of gas emission limitation and failed to replace it with any limitation for heating and reheating furnaces.

**Proposed Action:** USEPA proposes to approve this deletion for Part D purposes because the opacity limitation of R336.1301 as currently federally-approved would ensure RACT-level control. Likewise, the proposed revision to the limitation of R336.1301, that USEPA elsewhere in this notice is proposing to approve for stack sources, would ensure RACT-level control.

### 7. Coke Oven Coal Preheater Equipment

**FR Action:** USEPA conditionally approved the State's proposed emission limitation of 0.045 pounds of particulate per ton of coal fed to the coke oven preheater equipment, based on the State's commitment to clarify the test method.

**State Action:** Michigan deleted the emission limitation for coke oven coal preheater equipment pursuant to discussions with USEPA on this issue.

**PR Action:** Since the only subject source, which is owned by Detroit Coke Corporation, has been shut down and will require a new permit to commence operation; USEPA proposes to approve deletion of this rule, provided any operating permit issued for this source type is submitted as a SIP revision.

### Rule 336.1349—Coke Oven Compliance Dates

**FR Action:** USEPA conditionally approved R336.1349, which requires all facilities subject to Rules 336.1350

through 336.1357 to achieve compliance as expeditiously as practicable, based on the State's commitment to submit consent order containing enforceable increments of progress for each coke oven operated in the State of Michigan.

**State Action:** The state submitted a revised rule requiring compliance by December 31, 1982.

**PR Action:** USEPA proposes approval of this rule. The post-1982 compliance timeframe makes the issue moot, since R336.1349 requires that all sources be in compliance not later than December 31, 1982.

### Rule 336.1350—Emissions from Larry-Car Charging of Slot-Type Coke Ovens

**FR Action:** USEPA conditionally approved R336.1350, based on the State's commitment to submit an acceptable test method. Michigan's Rule 336.1350 prevents Larry-car, charging hole, or leveling door visible emissions, except for periods aggregating 80 seconds during and 4 consecutive charging periods on a coke battery.

**State Action:** Michigan established Test Method 9B to determine compliance and changed the emission aggregating time to 100 seconds.

**PR Action:** USEPA proposes approval of the rule, since it fulfills the minimum requirement to achieve RACT level control.

### Rule 336.1351—Charging Hole Emissions from Slot-Type Coke Ovens

**FR Action:** USEPA took no action.

**State Action:** Michigan established its Test Method 9B to determine compliance with this rule.

**PR Action:** USEPA proposes approval of this rule.

### Rule 336.1352—Pushing Emission from Slot-Type Coke Ovens

**FR Action:** USEPA conditionally approved R336.1352, based on the State's commitment to correct the deficiencies noted by USEPA. Michigan's Rule 336.1352 prevents the discharge from any opening between the oven and the coke-receiving car of any visible air contaminant of a density of more than 40 percent opacity, except that one pushing operation in any eight consecutive pushing operations can exceed this requirement. The regulation also provides that visible air contaminants of a density of more than 40 percent opacity may not be discharged from the coke in any coke-receiving car, as it travels from the oven to the quench tower, except that the emissions from one out of every eight trips to the quench tower can exceed this requirement.

In addition, R336.1352 only limits the opacity of pushing emissions from any opening between the oven and the coke receiving car. The emissions from the car itself during the pushing operations needed to be regulated.

**State Action:** Michigan established its Test Method 9B to determine compliance with the rule and revised its visible emission limits to 25 percent opacity to comply with subsequent USEPA guidance.

**PR Action:** USEPA proposes disapproval of this rule because Test Method 9B is not approvable for coke pushing in its present form. Test Method 9B as it applies to coke pushing is discussed elsewhere in this notice under R336.2013.

### Rule 336.1353—Standpipe Assembly Emissions During Coke Cycle from Slot-Type Coke Ovens

**FR Action:** USEPA conditionally approved R336.1353, based on the State's commitment to clarify the source definition and adopt an acceptable test method. Michigan R336.1353 prevents visible emissions from a standpipe assembly during a coking cycle except that visible emissions may be emitted from a number of standpipe assembly points on a coking cycle not to exceed four percent of all standpipe assembly emission points on the coke battery.

**State Action:** Michigan established its Test Method 9B to determine compliance with this rule.

**PR Action:** USEPA proposes approval of this rule because Test Method 9B is approvable as it applies to coke oven standpipes. The definition is clarified in Test Method 9B, specifically R336.2031, Rule 1031 (d)(c)(v).

### Rule 336.1354—Standpipe Assembly Emissions during Decarbonization from Slot-Type Coke Ovens

**FR Action:** USEPA approved Michigan Rule 336.1354. This regulation prohibits visible air contaminants from any open standpipe lid of a density of more than 20 percent opacity except for the first 2 minutes of the decarbonization period. Moreover, it prohibits any standpipe lid to be open for decarbonization on any oven which is more than three ovens ahead of the oven being pushed.

**State Action:** Michigan revised this rule subsequent to the May 22, 1981, final rulemaking, deleting the visible emission limitation for standpipe emissions.

**PR Action:** USEPA proposes to approve this rule because RACT-level control is assured by R336.1353 which limits the percentage of leaking standpipe assemblies of ovens on the



coking cycle and by R336.1354 which, as revised, still prohibits standpipe lids to be open for decarbonization on any oven which is more than three ovens ahead of the oven being pushed.

**Rule 336.1355—Coke Oven Gas Collector Main Emissions from Slot-Type Coke Ovens**

*FR Action:* USEPA approved Michigan's Rule 336.1355. This regulation prevents visible emissions from coke oven gas collector mains.

*State Action:* This rule was subsequently modified to exempt the times when spooning the main or when the emergency relief valve opens.

*PR Action:* USEPA proposes to approve this rule.

**Rule 336.1356—Coke Oven Door Emissions from Slot-Type Coke Ovens and Doors Which are Five Meters or Shorter**

*FR Action:* USEPA conditionally approved R336.1356, based on the State's commitment to amend the rule to specify an acceptable compliance test methodology. This regulation controls emissions from coke oven doors by limiting the number of leaking doors per battery.

*State Action:* Michigan established Test Method 9B to determine compliance with this rule.

*PR Action:* USEPA proposes to approve this rule as RACT.

**Rule 336.1357—Coke Oven Door Emissions from Slot-Type Coke Ovens and Doors which are Taller than Five Meters**

*FR Action:* USEPA conditionally approved R336.1357, based on the State's commitment to amend the rule to specify an acceptable compliance test methodology. This regulation controls emissions from coke oven doors by limiting the number of leaking door per battery.

*State Action:* Michigan established test method 9B to determine compliance with this rule.

*PR Action:* USEPA proposes to approve this rule as RACT.

**Rule 336.2001–2004—General Testing Methodology**

*FR Action:* USEPA conditionally approved R336.2001, R336.2002, R336.2003, and R336.2004, based on the State's commitment to provide clarification of the test methodology.

*State Action:* The State has separated the test methodologies previously under this rule. The clarification issues will be discussed later in this notice under

Michigan's Rule 336.2010–2014, which are comprised of these conditionally approved methodologies.

*PR Action:* USEPA proposes approval of these regulations.

*Intermittent Testing and Sampling*  
Michigan's revised Rules 336.2010; 336.2011; 336.2012; 336.2013; 336.2014; 336.2021; 336.2030; 336.2031; 336.2032; and 336.2033 relate to testing and sampling methodologies for particulates.

USEPA today proposes approval of Part 10 of Michigan's May 17, 1985, submittal with respect to intermittent testing and sampling, with the exception of Rules 336.2013 and R336.2031 (relating to pushing emissions) which USEPA is today proposing to disapprove for the reasons discussed below.

**Rule 336.2013**

USEPA proposes disapproval of Michigan's Rule 336.2013 because the State failed to clearly establish the appropriate testing interval for mass testing of coke battery pushing control systems. In addition, Michigan's R336.2013 contains language which defines a cycle of operation for coke battery pushing emission control as commencing when the coke guide and snorkels are engaged. Pushing mass emission testing in other States most always commences upon the first movement of coke. Use of Michigan's language allows a longer test period which includes an undetermined period (during which clean air is blown through the system) over which one of more samples could be drawn. This could result in test results which are inordinately low and not representative of system operation. Revision of this rule to require sampling commencement upon the first movement of coke would be consistent with past Michigan testing practices.

**Rule 336.2031**

USEPA proposes disapproval of Michigan's R336.2031 because the State failed to clarify that readings during travel are included in the determination of average opacity during coke pushing. During pushing, the average of six readings should include readings during travel. Michigan defines "pushing" to only include the actual pushing of coke; "travel" is accounted separately and has its own data reduction provisions. The rule, as written, is vague. Further, when asked the interpretation of the rule, Wayne County also interpreted it to require readings during travel.

A 60-day public comment period is being provided on this notice of proposed rulemaking. Public comments received on or before May 1, 1989 will

be considered in USEPA's final rulemaking action. If during the comment period, the State of Michigan submits a commitment and an approvable schedule for correcting the SIP deficiencies noted above, USEPA may repropose rulemaking action on the present submission rather than go to final rulemaking in accordance with this proposal.

Under Executive Order 12291, this action is not "Major". It has been submitted to the Office of Management and Budget for review.

Pursuant to the provision of 5 U.S.C. 605(b), I certify that this action will not have a significant economic impact on a substantial number of small entities because it affects only iron and steel sources for the Wayne County primary nonattainment area.

**List of Subjects in 40 CFR Part 52:**

Air pollution control, Particulate matter, Intergovernmental relations.

Authority: 42 U.S.C. 7401–7642.

Dated: April 1, 1986.

Valdas V. Adamkus,  
Regional Administrator.

Note.—This document was received by the Office of the Federal Register February 23, 1989.

[FR Doc. 89–4598 Filed 2–27–89; 8:45 am]

BILLING CODE 6580–50–M

**40 CFR Part 85**

[AMS FRL–3529–8]

**Motor Vehicle Emissions Control System Performance Warranty Short Tests—Alternative Test Procedures**

AGENCY: Environmental Protection Agency.

ACTION: Extension of comment period.

**SUMMARY:** On December 23, 1988, EPA published a Notice of Proposed Rulemaking (NPRM) in the Federal Register that would establish an alternative loaded-mode test procedure for inclusion in the Emission Control System Performance Warranty Short Tests of 40 CFR Part 85, Subpart W. The alternative procedure consists of test and dynamometer specifications that could be substituted for those contained in the present regulations for the loaded-mode portion of the Loaded Test. The Agency is extending the comment period on this proposal in response to a request from the motor vehicle industry.

**DATES:** Comments on the rulemaking action should be submitted to the



Agency at the address given below on or before March 31, 1989.

**ADDRESSES:** Materials relevant to the proposed loaded-test revision are contained in Public Docket No. A-88-32. The docket is located at the Environmental Protection Agency, Central Docket Section, South Conference Center, Room 4, 401 M Street SW., Washington, DC 20460. Interested persons may inspect the docket between 8:00 a.m. and 3:30 p.m. on weekdays. A reasonable fee may be charged for copying.

**FOR FURTHER INFORMATION CONTACT:** Richard Wilcox, Emission Control Technology Division, Office of Mobile Sources, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105. Telephone: (313) 668-4390.

**SUPPLEMENTARY INFORMATION:** The loaded test is one of several short test procedures that can be used by states to measure vehicular emissions as part of their inspection and maintenance (I/M) programs. Owners of 1981 and newer light-duty motor vehicles meeting certain age and mileage restrictions, that are subject to any sanction as a result of failing an approved short test, may be eligible for certain emissions performance warranty coverage. The test procedures and performance warranty regulations are contained in 40 CFR Part 85, Subparts V and W.

On January 3, 1989, the State of Arizona began loaded-mode testing with dynamometer equipment and procedures that result in a lower speed and lighter load on the vehicle than specified in the current Loaded Test requirement. On December 23, 1988, EPA proposed to revise the loaded-mode portion of the Loaded Test to accommodate Arizona's dynamometers (53 FR 51956). The proposal included two alternatives, each allowing the test to be conducted at a somewhat lighter load than currently required.

In the NPRM, EPA stated that no public hearing would be held on the relatively minor technical revisions unless specifically requested to do so. On January 9, 1989, the Motor Vehicle Manufacturers Association (MVMA) requested such a hearing.<sup>1</sup> MVMA subsequently withdrew that request on February 2, 1989, in lieu of an extended public comment period.<sup>2</sup> The industry

association based its later request on the need to more fully evaluate the effect on vehicle manufacturers' warranty obligations of the proposal. This included analyzing test data that have only recently become available from the new loaded-mode testing program in Arizona.

The Agency is granting MVMA's request for an extension of the comment period for the following reasons. First, while the effect of loaded testing on manufacturer's warranty obligations may not be centrally relevant to the proposed test revisions, neither does there appear to be any overwhelming reason not to provide a reasonable amount of additional time for the affected industry to analyze such an effect during the rulemaking process. Second, EPA has added two additional studies of loaded-mode testing to the public docket that have become available since the proposal was drafted. An extension of the comment period will provide all interested parties with an opportunity to review and comment on this additional information.

Date: February 22, 1989.

Don R. Clay,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 89-4599 Filed 2-27-89; 8:45 am]

BILLING CODE 6560-50-M

## FEDERAL EMERGENCY MANAGEMENT AGENCY

### 44 CFR Part 67

[Docket No. FEMA-6949]

#### Proposed Flood Elevation Determinations

**AGENCY:** Federal Emergency Management Agency.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed modified base (100-year) flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program.

**DATES:** The period for comment will be ninety (90) days following the second publication of the proposed rule in a newspaper of local circulation in each community.

**ADDRESSES:** See table below.

#### FOR FURTHER INFORMATION CONTACT:

Mr. John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 646-2767.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency gives notice of the proposed determinations of modified base (100-year) flood elevations for selected locations in the nation, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.4 (a).

These elevations, together with the floodplain management measures required by Section 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents. Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed modified flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under Section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

#### List of Subjects in 44 CFR Part 67

Flood insurance, Floodplains.

<sup>1</sup> Letter to EPA Central Docket Section from Marcel L. Halberstadt, Motor Vehicle Manufacturers Association, dated January 9, 1989. See Docket A-88-32.

<sup>2</sup> Letter to Richard Wilcox, U.S. EPA, from Marcel L. Halberstadt, Motor Vehicle Manufacturers Association, dated February 2, 1989. See Docket A-88-32.



The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.,  
Reorganization Plan No. 3 of 1978, E.O. 12127.

The proposed modified base flood elevations for selected locations are:

# PROPOSED MODIFIED BASE FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	Depth in feet above ground * Elevation in feet (NGVD)		
				Existing	Modified	
Arkansas.....	Shannon Hills, City, Saline County.	Otter Creek.....	At the downstream corporate limits.....	*313	*312	
			At the upstream corporate limits.....	*319	*318	
		Shannon Hills Tributary.....	Approximately 0.27 mile upstream of Joan Drive.	None	*330	
			At the confluence with Otter Creek.....	*315	*313	
Maps available for inspection at the City Hall, 10401 High Road East, Shannon Hills, Arkansas.						
Send comments to The Honorable Harold R. MacIntire, Mayor of the City of Shannon Hills, Saline County, 10401 High Road East, Shannon Hills, Arkansas 72103.						
Colorado.....	City of Aurora, Adams and Arapahoe Counties.	Sable Ditch.....	Approximately 60 feet downstream of Sable Boulevard.	*5362	*5362	
			Just upstream of Eagle Street.....	*5376	*5375	
			Just Upstream of Montview Boulevard.....	*5393	*5390	
			Just upstream of Jasper Street.....	*5419	*5418	
			Limit of detailed study approximately 920 feet upstream of Jasper Street.	*5424	*5420	
		East Toll Gate Creek.....	At the confluence with West Toll Gate Creek.....	*5408	*5408	
			Just upstream of Chambers Road.....	*5413	*5417	
			Just upstream of Buckley Road.....	*5466	*5464	
			Limit of Detailed Study approximately 9,400 feet upstream of Buckley Road.	*5511	*5511	
		West Toll Gate Creek.....	Limit of Detailed Study of East Mississippi River.	None	*5473	
			Just upstream of Buckley Road.....	*5532	*5530	
			Pond elevation at confluence of unnamed creek.	*5566	*5560	
			Just upstream of East Hampton Avenue.....	*5606	*5607	
			Limit of Detailed Study approximately 2,250 feet upstream of East Mansfield Avenue.	*5653	*5660	
Maps are available for review at City of Aurora Engineering, 1470 South Havana Street, Aurora, Colorado 80012.						
Send comments to The Honorable Paul Tauer, Mayor, City of Aurora, 1470 South Havana Street, Aurora, Colorado 80012.						
Connecticut.....	Bridgeport, City, Fairfield County.	Rooster River.....	100 feet downstream of Brooklawn Avenue.....	*21	*20	
			50 feet downstream of corporate limits.....	*38	*37	
Maps available for inspection at the City Hall, 45 Lyon Terrace, Bridgeport, Connecticut.						
Send comments to The Honorable Thomas W. Bucci, Mayor of the City of Bridgeport, Fairfield County, 45 Lyon Terrace, Bridgeport, Connecticut 06604.						
Florida.....	Unincorporated Areas of Orange County.	Harvest Lake.....	At shoreline.....	None	*92	
		St. Johns River.....	At Seminole County boundary.....	*13	*11	
			Just upstream of State Road 520.....	*19	*18	
Maps available for inspection at the Department of Engineering, Engineering and Water Management, 2450 33rd Street, Orlando, Florida.						
Send comments to The Honorable Thomas Sewell, County Administrator, Orange County, P.O. Box 1393, Orlando, Florida 32802.						
Georgia.....	Unincorporated Areas of DeKalb County.	Stone Mountain Creek.....	Just downstream of dam at Water's Edge Lake..	*758	*758	
			Just upstream of dam at Water's Edge Lake.....	*758	*772	
			Just upstream of North Deshon Road.....	*773	*773	
		Stone Mountain Creek, Tributary A.	At mouth.....	*768	*772	
			About 1,400 feet upstream of mouth.....	*778	*772	
			About 250 feet upstream of Water's Edge Drive.	*781	*781	
		Crooked Creek Tributary.....	Just downstream of dam at Crooked Creek Lake.	*757	*757	
		757	Stone Mountain Creek.....	Just upstream of dam at Crooked Creek Lake....	*757	*768
			About 650 feet downstream of South Deshon Road.	*768	*768	
		Maps available for inspection at DeKalb County, 556 North McDonough, Decatur, Georgia.				
Send comments to The Honorable Manuel J. Maloof, Chief Executive Officer, DeKalb County, 556 North McDonough, Decatur, Georgia 30050.						
North Carolina.....	City of Greensboro, Guilford County.	South Buffalo Creek.....	About 4,000 feet downstream of Interstate 85....	*717	*718	
			Just downstream of Interstate 85.....	*721	*721	
Maps available for inspection at the City of Greensboro, Planning Department, Greensboro, North Carolina.						
Send comments to The Honorable V.M. Nussbaum, Jr., Mayor, City of Greensboro, Drawer W2, Greensboro, North Carolina 27402.						
North Carolina.....	Unincorporated Areas of Guilford County.	South Buffalo Creek.....	Just upstream of State Road 6.....	*715	*715	



## PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	Depth in feet above ground * Elevation in feet (NGVD)	
				Existing	Modified
			About 800 feet upstream of State Road 6 .....	*715	*717
			Just upstream of Interstate 85 .....	*722	*722

Maps available for inspection at the County Planning & Development, 201 S. Eugene, Greensboro, North Carolina.

Send comments to The Honorable John Witherspoon, County Manager, Guilford County, P.O. Box 3427, Greensboro, North Carolina 27402.

Harold T. Duryee,

Administrator, Federal Insurance  
Administration.

Issued: February 21, 1989.

[FR Doc. 89-4570 Filed 2-27-89; 8:45 am]

BILLING CODE 6718-03-M

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MM Docket No. 89-33, RM-6542]

### Radio Broadcasting Services; Petersburg, NJ

**AGENCY:** Federal Communications  
Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a petition by General Electronics Development Corporation to allot Channel 274A to Petersburg, New Jersey, as its first local FM service. Channel 274A can be allotted to Petersburg in compliance with the Commission's minimum distance separation requirements with a site restriction of 7.4 kilometers (4.6 miles) southeast to avoid a short-spacing to Station WMGK, Channel 275B, Philadelphia, Pennsylvania. The coordinates for this allotment are North Latitude 39-11-58 and West Longitude 74-40-34. Petitioner is requested to furnish additional information sufficient to determine that Petersburg is a community for allotment purposes.

**DATES:** Comments must be filed on or before April 17, 1989, and reply comments on or before May 2, 1989.

**ADDRESS:** Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: William L. Bruce, III, Esq., Stanford & Bruce, 34 East Main Street, Mays Landing, New Jersey 08330-1798 (Counsel to petitioner).

**FOR FURTHER INFORMATION CONTACT:** Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 89-33, adopted January 24, 1989, and released February 22, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service (202), 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

### List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division,  
Mass Media Bureau.

[FR Doc. 89-4509 Filed 2-27-89; 8:45 am]

BILLING CODE 6712-01-M

### 47 CFR Part 73

[MM Docket No. 89-34, RM-6552]

### Radio Broadcasting Services; Belen and Grants, NM

**AGENCY:** Federal Communications  
Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a petition by Brooks

Broadcasting Company, Inc. requesting the substitution of Channel 249C for Channel 249A at Belen, NM, the modification of its license for Station KARS-FM, and the substitution of Channel 265C2 for unoccupied but applied for Channel 250C2 at Grants, NM. Channel 249C can be allotted to Belen in compliance with the Commission's minimum distance separation requirements and can be used at the present transmitter site of Station KARS-FM. Channel 265C2 can be allotted to Grants in compliance with the Commission's minimum distance separation requirements and can be used at the site specified in the pending application of Don R. Davis. The coordinates for Channel 249C at Belen are North Latitude 34-45-02 and West Longitude 106-39-55. The coordinates for Channel 265C2 at Grants are North Latitude 35-07-09 and West Longitude 107-54-08. Competing expressions of interest in use of Channel 249C at Belen will not be accepted and the petitioner will not be required to demonstrate the availability of an additional equivalent channel for use by such parties. The application of Davis for Channel 250C2 at Grants can be amended without loss of cut-off protection if the proposal is adopted.

**DATES:** Comments must be filed on or before April 17, 1989, and reply comments on or before May 2, 1989.

**ADDRESS:** Federal Communication Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Lee J. Peltzman, Esq., Baraff, Koerner, Olender & Hochberg, P.C., 2033 M Street, NW., Suite 700, Washington, DC 20036-3355 (Counsel to petitioner).

**FOR FURTHER INFORMATION CONTACT:** Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 89-34, adopted January 24, 1989, and released January 22, 1989. The full text



of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transportation Service, (202) 857-3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission  
Steve Kaminer,

Deputy Chief, Policy and Rules Division,  
Mass Media Bureau.

[FR Doc. 89-4510 Filed 2-27-89; 8:45 am]

BILLING CODE 6712-01

#### 47 CFR Part 97

[PR Docket No. 88-139]

**Requests for Extension of Time To File Reply Comments or the Issuance of a Second Notice of Proposed Rule Making in the Matter of the Reorganization and Deregulation of the Rules Governing the Amateur Radio Services.**

**AGENCY:** Federal Communications Commission.

**ACTION:** Requests denied.

**SUMMARY:** This document denies petition in the matter of the reorganization and deregulation of the rules governing the Amateur Radio Services. The petitioner (David B. Popkin) believes that more time is needed to evaluate the comments filed by The American Radio Relay League, Inc. The Commission, however, pointed out that ample time had been allowed for comments and reply comments. The Commission also concluded that, in the interest of administrative efficiency, the proceeding should not be subject to the delay that a time extension would

cause. The Commission said that the same reasons apply to issuance of a Second Notice of Proposed Rule Making.

**DATE:** February 10, 1989.

**ADDRESS:** Federal Communications Commission, 1919 M Street, NW, Washington, DC 20554.

#### FOR FURTHER INFORMATION CONTACT:

Maurice J. DePont, Federal Communications Commission, Washington, DC 20554, (202) 632-4964.

**SUPPLEMENTARY INFORMATION:** Amateur Radio, Digital Communications, Emissions, Repeaters.

#### Order

Adopted: February 10, 1989

Released: February 15, 1989

In the matter of Reorganization and Deregulation of Part 97 of the Rules Governing the Amateur Radio Services, PR Docket No. 88-139, DA 89-194.

By the Chief, Private Radio Bureau:

1. On April 13, 1988, the Commission released a *Notice of Proposed Rule Making (Notice)* in this proceeding, published April 19, 1988, 53 FR 12780, 3 FCC Rcd 2076 (1988), proposing to reorganize Part 97 of the Code of Federal Regulations, 47 CFR Part 97. Part 97 governs the Amateur Radio Services.<sup>1</sup> Comments were due on or before August 31, 1988. Reply comments were due on or before October 31, 1988. On August 22, 1988, the Chief, Private Radio Bureau, extended the comment period to and including November 29, 1988, and the reply comment period to and including January 31, 1989, 3 FCC Rcd 5277 (1988).

2. On January 26, 1989, David B. Popkin filed reply comments and a request for an extension of time until July 17, 1989, to reply to the comments filed in this proceeding by The American Radio Relay League, Inc. (ARRL). In the alternative, the petitioner requests that the Commission issue a Second Notice of Proposed Rule Making so that comments could be filed to ARRL's comments.

3. The petitioner argues that more time is needed to evaluate the comments submitted by the ARRL because they consist of a complete rewrite of the Commission's proposal. He asserts that the additional time is needed to ensure that all of the necessary topics have been covered and that there are no inconsistencies between the various sections.

4. The comment period in this proceeding was open for more than six months. Subsequent to that period, there was a two month period in which interested parties had an opportunity to file reply comments. In all, more than

ten months have passed since the proposal was adopted. In the interest of administrative efficiency, it is desirable that the proceeding be moved forward. To grant the petitioner's request would only serve to delay the proceeding for approximately six more months.

5. Further, it is noted that the request for an extension of time is procedurally defective. Pursuant to § 1.46(b) of the Commission's Rules, 47 CFR 1.46(b), such requests must be filed at least seven days before the due date for receiving reply comments. In this proceeding, reply comments were due on or before January 31, 1989. The petitioner's request, filed January 26, 1989, was not timely filed.

6. In view of the foregoing, it is ordered that the request of David B. Popkin to extend the time for filing reply comments until July 17, 1989, is denied. The reasons given for denying the time extension apply equally to the request for the issuance of a Second Notice of Proposed Rule Making. It is therefore further ordered that the request for a Second Notice of Proposed Rule Making is also denied.

Federal Communications Commission.

Ralph A. Haller,

Chief, Private Radio Bureau.

[FR Doc. 89-4508 Filed 2-27-89; 8:45 am]

BILLING CODE 6712-01-M

#### GENERAL SERVICES ADMINISTRATION

#### 48 CFR Parts 514, 515, and 552

[GSAR Notice No. 5-233 and 5-234]

#### General Services Administration Acquisition Regulation; Bid Samples

**AGENCY:** Office of Acquisition Policy, GSA.

**ACTION:** Proposed rule.

**SUMMARY:** This notice invites comments on a proposed change to the General Services Administration Acquisition Regulation (GSAR) that would revise section 514.202-4 to simplify regulatory coverage by deleting material unnecessarily duplicative of the Federal Acquisition Regulation and other material nonregulatory in nature; add Subpart 515.70 to provide policies and procedures regarding the use of bid samples in negotiated acquisitions; and amend section 552.214-76 to delete unnecessary material in the introductory paragraph and provide the text of a revised Bid Sample Requirements clause.



**DATE:** Comments are due in writing on or before March 30, 1989.

**ADDRESS:** Comments should be addressed to Ms. Marjorie Ashby, Office of GSA Acquisition Policy and Regulations (VP), 18th and F Streets NW., Room 4026, Washington, DC 20405.

**FOR FURTHER INFORMATION CONTACT:** Paul Linfield, Office of GSA Acquisition Policy and Regulations, (202) 566-1224.

**SUPPLEMENTARY INFORMATION:** The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. The exemption applies to this proposed rule. The GSA believes that this proposed rule will not have a significant economic impact on a substantial number of small entities, since the use of bid samples is currently provided for under sealed bidding and any impact the requirement would add for negotiated acquisitions would be offset by a concomitant reduction in the number of sealed bid acquisitions. Therefore, no regulatory flexibility analysis has been prepared. However, comments from small entities are hereby solicited and will be considered in accordance with section 610 of the Regulatory Flexibility Act. This rule does not contain any new information collection requirement that requires OMB approval under the Paperwork Reduction Act. GSA Form 434 referenced in the Bid Sample Requirements Clause at 552.214-76 merely provides bidders with a uniform means for providing disposition instructions for their bid samples, and implements FAR 14.202-4 which has been approved by OMB and assigned OMB Control No. 9000-0040.

List of Subjects in 48 CFR Parts 514, 515 and 552

Government procurement.

1. The authority citation for 48 CFR Parts 514, 515 and 552 continues to read as follows:

Authority: 40 U.S.C. 486(c).

#### PART 514—SEALED BIDDING

2. Section 514.202-4 is revised to read as follows:

##### 514.202-4 Bid samples.

(a) *Solicitation requirements.* (1) When it has been determined that bidders will be required to submit bid samples, the solicitation must include a provision incorporating the provision at FAR 52.214-20 and containing the information in FAR 14.202-4(e) and must require—

(i) Samples to be from the production of the manufacturer whose products will be furnished under the resultant contract, and

(ii) Bidders to use GSA Form 434, Sample Record Sheet, copies of which will be furnished with each solicitation.

(2) If it is determined that bidders will be permitted to reapply samples furnished under a previous solicitation, FAR 52.214-20, Alternate II, shall be used.

(3) In addition to subjective characteristics of bid samples, objective characteristics may be used when it has been determined, on the basis of past experience or other valid considerations, that examination of such characteristics is necessary to determine the responsiveness of the bid. When both types of characteristics are listed in the solicitation, they must be listed separately under the headings "Subjective Characteristics" and "Objective Characteristics."

(4) Because of variations in circumstances and differences in commodities, no standard provision can be prescribed for use in all solicitations. The provision at 522.214-76, Bid Sample Requirements, is provided as an example and may be used in solicitations as shown or modified to fit the circumstances of the procurement.

(b) *Handling and disposition of samples.* (1)(i) Samples held during the period of contract performance may be disposed of after deliveries are completed and Government acceptance has occurred, in accordance with the instructions indicated on GSA Form 434.

(ii) If the contracting officer anticipates that there may be a future claim regarding a contract, the bid samples must be retained until the claim is resolved.

(2) All other bid samples should be held until awards are made and then disposed of in accordance with instructions indicated on GSA Form 434.

#### PART 515—CONTRACTING BY NEGOTIATION

3. Subpart 515.70 is added to read as follows:

##### Subpart 515.70—Use of Bid Samples

- 515.7000 Scope of subpart.
- 515.7001 General.
- 515.7002 Policy.
- 515.7003 Procedural requirements.

##### Subpart 515.70—Use of Bid Samples

###### 515.7000 Scope of subpart.

This subpart supplements the policies and procedures in FAR 14.202-4 and 514.202-4 regarding bid samples required in negotiated acquisitions.

###### 515.7001 General.

Except as provided in 515.7002 and 515.7003 below, the basic policy and procedures in FAR 14.202-4 and 514.202-4 apply to negotiated acquisitions. When referring to FAR 14.202-4 and 514.202-4, the term "bid" means "offer" or "proposal" and the term "bidder" and "invitation" or "invitation for bids" are used synonymously with "offeror" and "solicitation" or "RFP" when contracting by negotiation.

###### 515.7002 Policy.

(a) Since the terms "responsiveness" and "nonresponsive" do not apply to negotiated acquisitions, FAR 14.202-4(b)(2) and (4) do not apply when the use of bid samples is determined under this subpart.

(b) Instead of FAR 14.202(b)(2) and (4), apply the following:

(1) Bid samples will be used in the technical evaluation of proposals to determine the acceptability of the samples to meet the Government's specification and to ensure compliance with the subjective and any objective characteristics listed in the solicitation.

(2) A proposal may be excluded from further consideration for award, if after discussion with the offeror of any deficiencies found in the samples and after the offeror has been given an opportunity to correct those deficiencies, the sample still fails to conform to each of the characteristics listed in the solicitation (See FAR 15.609).

###### 515.7003 Procedural requirements.

(a) *Unsolicited samples.* The reference to FAR 14.404-2(d) in FAR 14.202-4(g) is not applicable and the following is to be applied when contracting by negotiation: Qualifications in the proposal that are at variance with the Government's requirements are deficiencies and must be resolved as provided for in FAR 15.610.

(b) *Solicitation requirements.* (1) When the clause at FAR 52.214-20 is used in a negotiated acquisition, the second sentence in paragraph (c) of the clause, does not apply. A sentence substantially as follows must be substituted in the clause when contracting by negotiation: Failure of the bid samples to conform to all of the required characteristics listed in the solicitation shall constitute a deficiency in the proposal and shall be resolved as provided for in FAR 15.610.

(2) In addition to listing in the solicitation subjective characteristics that cannot be adequately described in the specification, objective characteristics may be listed and



evaluated when it has been determined, on the basis of past experience or other valid considerations, that examination of such characteristics is essential to the acquisition of an acceptable product.

(c) Samples received after the time set for receipt of offers may be considered only if they meet the requirements in FAR 52.215-10.

#### PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Section 552.214-76 is revised to read as follows:

##### 552.214-76 Bid Sample Requirements.

As prescribed in 514.202-4(a)(4), insert the following provision:

##### Bid Sample Requirements (XXX 1989)

This provision supplements FAR 52.214-20, which is incorporated by reference. Samples shall be from the production of the manufacturer whose products will be supplied under resultant contracts.

(a) Two bid samples are required for each of the following items in this solicitation:

(b) Two representative samples shall be submitted for each of the following items upon which a bid is submitted:

##### Acceptable Representative Samples

Note.—(1) Bidders ☐ are or ☐ are not authorized to re-apply samples being retained by GSA in connection with previous solicitations and/or resultant contracts. When the block "are" is marked by the Government, FAR 52.214-20, Alternate II, shall apply.

(2) Bidders who propose to furnish an item or group of items from more than one manufacturer must submit two samples from the production of each of those manufacturers.

(c) Samples will be evaluated to determine compliance with all characteristics listed below:

Subjective characteristics

Objective characteristics

(d) Forward samples addressed to the Sample Room indicated below. Except for samples delivered by U.S. Mail deliveries will be accepted between the hours of \_\_\_\_\_ Mondays through Fridays, official holidays excluded. Samples must be submitted with

the original copy of the attached GSA Form 434 enclosed and properly executed.

Caution: Use proper address for method of shipment selected.

Mail and Parcel Post (Insert Address of Bid Sample Room).

Freight or Express (Insert address of Bid Sample Room).

(e) Samples shall be disposed of, after they have served the Government's purpose, pursuant to a bidder's instructions indicated on GSA Form 434.

(End of Provision)

Dated: February 14, 1989.

Richard H. Hopf III,

Associate Administrator for Acquisition Policy.

[FR Doc. 89-4566 Filed 2-27-89; 8:45 am]

BILLING CODE 6820-61-M

#### INTERSTATE COMMERCE COMMISSION

##### 49 CFR Parts 1011 and 1145

[Ex Parte No. 388 A]

##### State Intrastate Rail Rate Authority; Recertification Process

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed policy.

SUMMARY: To continue to exercise jurisdiction over intrastate railroad rates, State authorities are required under 49 U.S.C. 11501(b)(5)(A) to resubmit for I.C.C. approval standards and procedures consistent with Federal law. This notice tentatively adopts simplified procedures to accomplish this requirement. The procedures are outlined below.

DATES: Comments are due by March 30, 1989.

ADDRESSES: Send an original and 10 copies of pleadings referring to Ex parte No. 388 A to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245. (TDD for hearing impaired: (202) 275-1721).

SUPPLEMENTARY INFORMATION: In general, the Commission proposes that States seeking recertification will not be required to resubmit their previously approved standards and procedures. Instead, they will be required to certify that they remain the same, except as updated to conform with changes in Federal standards. The States will also be required to submit a list of these updates, which must be all-inclusive of Federal changes, and must certify that they have adopted these changes and incorporated them into their standards

and procedures. Finally, they must certify that their intrastate authority will be exercised in accordance with Federal law, and that Federal law will govern even if not explicitly so provided in their rules. To aid States in updating their standards and procedures, Appendix B in the decision in this proceeding lists those updates that should have been made to date.

It is each State's responsibility to maintain eligibility to regulate by seeking recertification prior to the expiration date of its existing certification. The Commission does not notify States that their existing certifications are nearing expiration. To prevent any lapse in certification, the timely filing of the above information will constitute automatic provisional certification for the State to continue regulation under its previously approved plan while its request for recertification is processed. No decision extending the certification's term pending review will be issued. This simplified process will be unavailable to States not previously certified or to those States that allow their certification to expire.

When the State files the required information with us, it will be required to serve all interstate railroads operating in the State. The carriers will have 30 days to file comments. Comments may include requests that this abbreviated procedure not be used, but such requests must be accompanied by compelling evidence that a more rigorous investigation of the State's activities is warranted, i.e., that the State's actions have been in such conflict with Federal law that the presumptions upon which this abbreviated process is based do not apply. The State may reply to any comments. The Commission will either approve recertification, or take other action appropriate in the circumstances.

Additional information is contained in the Commission's decision. To obtain a copy of the full decision, write to, call, or pick up in person from: Office of the Secretary, Room 2215, Interstate Commerce Commission, Washington, DC 20423. Telephone: (202) 275-7428. (Assistance for the hearing impaired is available through TDD services (202) 275-1721.)

Decided: February 8, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley, and Phillips. Commissioner Phillips commented with a separate expression.

Noreta R. McGee,  
Secretary.

[FR Doc. 89-4514 Filed 2-27-89; 8:45 am]

BILLING CODE 7035-01-M



## DEPARTMENT OF INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 23

## Export of American Alligators Taken in 1989 Through 1991 Harvest Seasons

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed findings and rule.

**SUMMARY:** The Convention on International Trade in Endangered Species of Wild Fauna and Flora (Convention) regulates international trade in certain animal and plant species. As a general rule, exports of animals and plants listed on Appendix II of the Convention may occur only if a Scientific Authority has advised a permit-issuing Management Authority that such exports will not be detrimental to the survival of the species, and if the Management Authority is satisfied that the animals or plants were not obtained in violation of laws for their protection. Based on documentation presented for consideration by the Convention Parties in 1983, the United States Fish and Wildlife Service (Service) has determined that the American alligator is listed on Appendix II for reasons of similarity in appearance under Article II.2(b) of the Convention as well as the potential threat to the species survival under Convention Article II.2(a).

This notice announces proposed findings by the United States Scientific Authority and Management Authority on (a) the export of alligators harvested during the 1989-1991 taking seasons from certain States previously approved for such export for the 1986-1988 harvest seasons, and (b) the addition of Alabama and Mississippi to the list of States approved for the harvest of American alligators for export. These proposed findings also stipulate that monitoring procedures previously established for this species be continued.

The Service requests comments on these proposed findings and information on the species involved.

**DATE:** The Service will consider comments received within 30 days of publication in making its final determination and rule.

**ADDRESSES:** Please send correspondence concerning this notice to the Office of Scientific Authority, U.S. Fish and Wildlife Service, Washington, DC 20240. Materials received will be available for public inspection from 8:00 a.m. to 4:00 p.m., Monday through Friday, at the Office of Scientific Authority, Room 725, Arlington Square,

Arlington, VA, or at the Office of Management Authority, Room 400, 1375 K Street, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:**

Scientific Authority Finding—Dr. Charles W. Dane, Office of Scientific Authority, U.S. Fish and Wildlife Service, Washington, DC 20240, telephone (703) 358-1745.

Management Authority Findings—Mr. S Ronald Singer, Office of Management Authority, U.S. Fish and Wildlife Service, Washington, DC 20240, telephone (202) 343-4963.

**SUPPLEMENTARY INFORMATION:**

Beginning in 1977, the Service has employed the rulemaking process to develop and issue decisions on the export of certain species under the Convention. The reason for this approach is that it is more effective to issue general decisions on the export of all specimens harvested in a given State and season than to issue such decisions separately for each permit application. This is true especially for Convention Appendix II species that are frequently exported, such as the American alligator. On September 2, 1986, (51 FR 31130) and August 15, 1988, (53 FR 30632) the Service published rules granting export approval for American alligators (*Alligator mississippiensis*) from specified States for the 1986-1988 harvest seasons. The purpose of this current proposal is to develop a rule that will allow the export of legally taken American alligators (hides, meat, parts, and products) for the 1989-1991 harvest years from previously approved States, and from two new States requesting alligator export approval.

**Scientific Authority Findings**

Article II, paragraph 2, of the Convention establishes that Appendix II shall include:

"(a) All species, which although not necessarily now threatened with extinction, may become so unless trade in specimens of such species is subject to strict regulations in order to avoid utilization incompatible with their survival; and

(b) Other species which must be subject to regulation in order that trade in specimens of certain species referred to in sub-paragraph (a) of this paragraph may be brought under effective control."

The American alligator is listed in Appendix II to respond both to problems of potential threat to the survival of the species [Convention Article II.2(a)], and to the similarity of appearance of other crocodilians that are threatened with possible extinction [Convention Article II.2(b)]. Article IV of the Convention requires that an export permit for any specimen of a species included in

Appendix II shall only be granted when certain findings have been made by the Scientific Authority and Management Authority of the exporting country. The marking of hides with specified tags, the marking and documentation of shipments of meat and parts, and the issuance of American alligator export permits, is considered sufficient to address the issue of identification due to similarity in appearance between American alligators and other listed crocodilian species (see Management Authority findings for export tagging program specifications). Because the alligator is listed partly due to the potential threat to its survival, based on previous population declines that have been reversed in most parts of its range in the United States, the Service must determine if exports will not be detrimental to the survival of the species itself.

The United States Scientific Authority must develop advice on nondetriment for the export of Appendix II species in accordance with section 8A of the Endangered Species Act (Act) of 1973, as amended. The Act states that the Secretary of the Interior, "shall base such determinations and advice given by him under Article IV of the Convention with respect to wildlife upon the best available biological information derived from professionally accepted wildlife management practices; but is not required to make, or require any State to make, estimates of population size in making such determinations or giving such advice."

Guidelines developed for Scientific Authority advice on exports of American alligator under provisions of Convention Article II.2(a), are summarized as follows:

**A. Minimum requirements for biological information:**

(1) Information on the condition of the population, including trends (the method of determination to be a matter of State choice), and population estimates where such information is available;

(2) Information on total harvest of the species, each harvest season;

(3) Information on distribution of harvest; and

(4) Habitat evaluation.

**B. Minimum requirements for a management program:**

(1) There should be a controlled harvest, methods and seasons to be a matter of State choice;

(2) All hides, meat, and parts should be registered and marked; and

(3) Harvest level objectives should be determined annually by the State.

In applying these guidelines, the Service considers the following types of



information on the conditions of the population: (a) A current estimate [if such information is available] of the total number of animals in the preharvest population derived by extrapolating the number of animals per unit area in each of the major habitat types to obtain an estimate of the total number of animals where the number of animals per unit is determined by direct count, by indirect indications of abundance in the State, or by population modeling; (b) a description of ongoing research being conducted to assess the distribution, abundance, or general condition of the species in the State, with a summarization of results obtained, including results of any analysis of age structure or reproductive parameters; and (c) an assessment of long-term population trends of the species in the State, and the relationship of these trends to habitat conditions, management practices, harvest pressure, and/or other factors.

Information on anticipated harvest to be considered by the Service includes: (a) The number of animals to be harvested [by county or game management unit, if data are available at these local levels]; (b) the number of alligator hunters expected to be licensed; and (c) the time of the harvest season.

In the case of the alligator, as with most other wild animals, the resource is monitored by a variety of techniques that yield information used in evaluating the condition of a population. As these data are accumulated over time, they reflect trends and call attention to changes in the populations. Habitat information, indices of population size, age and sex structure, and harvest information, are all used to evaluate population status. Although the Endangered Species Act Amendments of 1982 provided that population estimates are not to be required for the approval of Appendix II wildlife, if such estimates are provided by the States seeking export approval, or are otherwise available, they will be considered together with information of the types listed above in making findings on nondetriment.

In addition to considering the effect of trade on species or populations native to the United States that are being exported, the Scientific Authority will also monitor the status of the American alligator to (1) determine whether treatment of the alligator remains appropriate, and to (2) detect any significant downward trends in the population and, where necessary, advise on more restrictive export controls in response to these trends. This

monitoring and assessment will follow the same procedures adopted for other Convention-listed species (see 49 FR 590). The Service will request information on population status and harvest data relevant to the no detriment finding process from each export-approved State, as appropriate. When indicated by available information and a thorough review of accumulated data, a determination can then be made about the treatment of this species and whether the management program needs to be adjusted in a particular State.

The status of the American alligator has dramatically improved throughout its range since the species was placed under State and Federal control. One of the primary reasons for this improvement has been the effective management programs administered by State wildlife agencies. The Service expects these management programs to continue to be effective in conserving the alligator in the future.

The export of American alligators taken in the 1986 through 1988 harvest seasons in certain States was previously approved by the Service (51 FR 31130 and 53 FR 30682). In those rules, the Service found that "current information on the population status, management, and harvest" available from those States, along with other information collected by the Service, supported a finding that the export of alligators taken in accordance with State regulations in those States and in those harvest seasons would not be detrimental to the survival of the species in those States approved for export.

The Service's assessment of the status of the alligator was sufficient to support reclassification of the species throughout its range from threatened to threatened for similarity of appearance under the Endangered Species Act. The alligators to be harvested in the two new States will be those wild specimens declared to be a hazard to the human environment and those specimens farm-raised for harvest. Additional biological information on the status of the species has been requested and obtained from these two States in support of their request for the harvest of alligators for export.

Therefore, based upon information available from the previously approved States and on both Alabama and Mississippi now seeking export approval, and in consideration of the tagging requirements stipulated by the Management Authority, the Service proposes to issue Scientific Authority advice in favor of export of 1989-1991 legally harvested alligators from those

States previously approved and from Alabama and Mississippi.

#### Management Authority Findings

Exports of Appendix II species are to be allowed under the Convention only if the Scientific Authority advises that the exports will not be detrimental to the survival of the species, and if the Management Authority is satisfied that the specimens were not obtained in contravention of laws enacted for the protection of the involved species. The Service, therefore, must be satisfied that the alligator hide, meat, or product being exported was not obtained in violation of State or Federal law in order to allow export. For the American alligator, evidence of legal take is provided by Service-approved State export tagging and container marking programs. To assist these State export tagging programs, the Service annually contracts for the manufacture and delivery of special Convention animal-hide tags for Service-approved, export-qualified States.

In a Federal Register notice, published on April 24, 1986 (51 FR 15548), the Service announced the introduction, use, and protection of a US-CITES tag symbol. This symbol appears on every Service-approved export tag to provide legal evidence of U.S. export approval for certain species listed on Appendix II of the Convention. Hides marked with tags that lack this US-CITES symbol are not legally exportable from the United States.

Guidelines developed for Management Authority findings on State-managed American alligator export programs, under provisions of Convention Article IV.2(a), are summarized as follows:

- (1) Current State alligator trapping, hide tagging, meat and parts processing, marking, and shipping regulations must be on file with the Office of Management Authority;
- (2) Sample reporting forms, export tag, meat and parts packing seal, parts tag, and specifications of the State's standard meat and parts package/container must be on file with the Office of Management Authority;
- (3) The hide export tag must be durable and permanently locking, and must show US-CITES logo, State of origin, year of take, species, and be serially unique;
- (4) The export tag, meat seal, and parts tag or seal must be applied by the State to all hides, meat, or parts within a minimum time after take or processing, as specified by State law, and such time should be as short as possible to



minimize movement of untagged hides, meat, or parts;

(5) The tags or seals must be permanently attached, as mandated by the State;

(6) All alligator harvesters and processors must be State registered;

(7) All alligator hide, meat, and parts dealers must be State registered;

(8) All State-registered alligator harvesters, processors, and dealers must make available their alligator harvest and commerce data to the State on at least an annual basis, as specified by the State;

(9) State-registered alligator dealers and State licensed harvesters authorized to attach export tags must account for tags received and must return unused tags to the State, within a specified time after taking season closes; and;

(10) Fully manufactured hide products may be exported from the United States when State-applied Convention export tags, removed from hides contained in the product, are surrendered to the Service prior to export.

Based upon (1) the finding of non-detriment by the Scientific Authority, and (2) information available from both the previously export-approved States and from Alabama and Mississippi, now seeking alligator export approval for the first time, the Service proposes to issue Management Authority approval for the export of 1989-1991 legally harvested alligators from those States previously approved for such export and for Alabama and Mississippi.

#### Multiyear Findings

The Service has monitored existing State programs for the American alligator in most of the previously approved States for many years and expects these States will continue to satisfy Convention requirements. States seeking for the first time to establish a harvest program for alligators should apply for Convention export approval no later than January 2 of the year they plan to initiate such a program. To ensure that export-approved States maintain successful programs and that export is not detrimental to the survival of the species, the Service plans to

continue annual monitoring of State management and export marking programs through evaluation of annual reports from the States and export reports from U.S. ports. Annual State program reports are due in the Office of the Management Authority (address given above) no later than May 31 of each year.

#### Proposed Findings

The Service proposes to find that the status of the species and State program is such that the 1989-1991 harvests of American alligators for export will not be detrimental to the survival of the species. Accordingly, the Service proposes to approve exports of 1989-1991 harvested alligators from the States previously approved for export on the grounds that both Scientific Authority and Management Authority export requirements are satisfied. The Service also proposes to approve the addition of both Alabama and Mississippi to the list of States approved for the 1989-1991 harvest of alligators for export on the grounds that the alligator management and export programs in these States also satisfy the requirements of both the Scientific Authority and the Management Authority.

#### Comments Solicited

The Service requests comments on these proposed findings. Final findings will take into consideration the comments and any additional information received, and such consideration might lead to final findings that differ from this proposal.

The proposal is issued under authority of the Endangered Species Act of 1973 as amended (16 U.S.C. 1531 *et seq.*). The primary author is Mr. S. Ronald Singer, Office of Management Authority.

**Note.**—The Department had previously determined that the export of alligators of various States taken in the 1986-1988 harvest seasons was not a major Federal action that would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act, therefore, the preparation of an Environmental Impact

Statement was not required (49 FR 1058). Because these proposed findings do not significantly differ from the previous export findings, the Service believes that the previous determination not to prepare an Environmental Impact Assessment on export of alligators taken during specified harvest seasons in certain States remains valid. The Department had also previously determined that such harvest was not a major rule under Executive Order 12291 and did not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601). Because the existing rule treats exports on a State-by-State basis and proposes to approve export in accordance with State management/export programs, the final rule will have little effect on small entities in and of itself. This proposed rule does not contain any information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

#### List of Subjects in 50 CFR Part 23

Endangered and threatened wildlife, Exports, Fish, Imports, Plants (agriculture), Treaties.

#### PART 23—ENDANGERED SPECIES CONVENTION

Accordingly, the Service proposes to amend Part 23 of Title 50, Code of Federal Regulations, as set forth below:

1. The authority citation for Part 23 continues to read as follows:

**Authority:** Convention on International Trade in Endangered Species of Wild Fauna and Flora, TIAS 8249; and Endangered Species Act of 1973, 87 Stat. 884, 16 U.S.C. 1531 *et seq.*

#### Subpart F—Export of Certain Species

2. In § 23.57 revise paragraphs (a) and (b) and remove paragraphs (c) through (g) as follows:

**§ 23.57 American alligator (*Alligator mississippiensis*).**

\* \* \* \* \*

(a) 1979-1991 harvests (wild and captive bred for each year unless noted).

	AL	FL	GA	LA	MS	SC	TX
1979(*)	—	+	—	+	—	—	—
1980	—	+	—	+	—	—	—
1981	—	+	—	+	—	—	—
1982	—	+	—	+	—	—	—
1983	—	+	—	+	—	—	—
1984	—	+	—	+	—	—	+
1985	—	+	—	+	—	—	+
1986	—	+	—	+	—	—	+
1987	—	+	—	+	—	—	+



	AL	FL	GA	LA	MS	SC	TX
1988	-	+	+	+	-	+	+
1989	+	+	+	+	+	+	+
1990	+	+	+	+	+	+	+
1991	+	+	+	+	+	+	+

## Legend

- + Export approved.  
- Export not approved.  
\* And prior year.

(b) Condition on export: (1) Each hide must be clearly identified as to species, country, State of origin, and season of taking, and must be marked by a permanently attached, serially numbered tag of a type approved by the Service that is attached under conditions established by the Service. Fully manufactured hide products may be exported from the United States when State-applied export tags, removed from hides contained in the products, are surrendered to the Service prior to export.

(2) Meat from legally harvested and tagged alligators shall be packed in

uniform containers, permanently sealed and labeled as required by State law. Bulk meat containers shall be marked with a State "parts tag" or "bulk meat tag" permanently attached indicating, at a minimum, State of origin, year of take, species, original hide export tag number, weight of meat in the container, and identification of State licensed processor or packer.

(3) Large individual parts shall have a "parts tag" permanently attached, while smaller parts may be packed with a "parts tag" permanently attached to the sealed package. "Parts tags" shall supply the same information as

described for such tags used to mark alligator meat.

(4) Alligator skulls shall carry a "parts tag" and also be physically marked with the number of the original U.S.-CITES export tax used for the hide of that individual, and other markings, as required by State law.

Dated: February 8, 1989.

Becky Norton Dunlop,  
Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 89-4443 Filed 2-27-89; 8:45 am]

BILLING CODE 4310-55-M



# Notices

Federal Register

Vol. 54, No. 38

Tuesday, February 28, 1989

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Commodity Credit Corporation

#### Final Determination of 1989 Upland Cotton Program

**AGENCY:** Commodity Credit Corporation, USDA.

**ACTION:** Notice of Determination of 1989 Upland Cotton Program.

**SUMMARY:** The purpose of this notice is to affirm the determinations made by the Secretary of Agriculture which are required to be made in order to implement the 1989 upland cotton price support and production adjustment program. These determinations are made in accordance with the Agricultural Act of 1949, as amended (the "1949 Act"), and the Commodity Credit Corporation (CCC) Charter Act, as amended (the "Charter Act").

**EFFECTIVE DATE:** February 28, 1989.

**ADDRESS:** Bruce R. Weber, Director, Commodity Analysis Division, USDA-ASCS, Room 3741, South Building, P.O. Box 2415, Washington, DC 20013.

**FOR FURTHER INFORMATION CONTACT:** Charles V. Cunningham, Leader, Fibers Group, Commodity Analysis Division, USDA-ASCS, Room 2741 South Building, P.O. Box 2415, Washington, D.C. 20013 or call (202) 447-7954.

**SUPPLEMENTARY INFORMATION:** This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation NO. 1512-1 and has been designated as "major." It has been determined that these program provisions will result in an annual effect on the economy of \$100 million or more. The Final Regulatory Impact Analysis describing the options considered in developing this notice of determination is available on request from the above-named individual.

The titles and numbers of the Federal assistance programs, as found in the

catalogue of Federal Domestic Assistance, to which this notice applies are:

Titles	Numbers
Commodity Loans and Purchases.....	10.051
Cotton Production Stabilization.....	10.052

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since the CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of these determinations.

It has been determined by environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

On July 14, 1988 (53 FR 26619), a notice of proposed determination was published requesting public comment on the 1989 Upland Cotton Program. A total of fourteen respondents submitted comments. Respondents included twelve producer associations, one textile industry association, and one cotton shipper. Their comments are summarized as follows:

(a) *Plan A/Plan B Marketing Loan*—Ten respondents commented. Eight respondents favored Plan B, of which four supported establishing a minimum loan repayment rate and four recommended such a minimum not be established. Of the respondents that recommended Plan B with such a minimum floor, three suggested the floor be set at 80 percent of the loan rate and one did not specify a level. The remaining two respondents supported Plan A. Plan B without a floor will be implemented because it has been determined to be the most effective and efficient manner in which to administer the marketing loan program.

(b) *First Handler Certificates*—Ten respondents commented. Four respondents indicated that first handler

certificates were either not required or should not be issued. Six respondents supported the issuance of such certificates. Of the respondents that supported the use of first handler certificates, two recommended a loan repayment rate of 80 percent of the loan rate and the use of cotton-specific certificates, one recommended a repayment rate of 80 percent of the loan rate and one recommended use of generic certificates. If under either Plan A or Plan B, U.S. upland cotton is not fully competitive in world markets and the adjusted world price (AWP) is below the loan repayment rate, the Secretary shall issue first handler marketing certificates to buyers of upland cotton in an amount equal to the difference between the loan repayment rate and the AWP. Under Plan B as announced for the 1989/90 crop, whenever the AWP falls below the loan rate, the loan repayment rate is equal to the AWP. Therefore, since Plan B without a floor will be implemented, no first handler certificates will be issued.

(c) *Loan Deficiency Payments*—Ten respondents commented. All supported the issuance of loan deficiency payments. Five respondents suggested the decision about loan deficiency payments be allowed on a bale-by-bale basis. Four respondents recommended payments should be paid part in cash and part in generic certificates. Two respondents recommended the total payment should be made in the form of cash. In order to provide producers with greater flexibility in marketing their cotton, loan deficiency payments will be made available to producers who, although otherwise eligible, agree to forego loan eligibility on their 1989-crop upland cotton. Although the Secretary may make up to one-half of the amount of a loan deficiency payment in the form of negotiable marketing certificates, it has been determined that loan deficiency payments for 1989 will be made in the form of cash because limited quantities of CCC-owned commodities are available from inventory.

(d) *Acreage Reduction Level (ARP)*—Thirteen respondents commented. Twelve respondents recommended that the ARP be established at 25 percent. The other respondent favored an ARP but did not specify the level. Based upon the 1988/89-crop ending stock estimate of 8.3 million bales, which is an



excessive amount, it has been determined that the maximum ARP of 25 percent will be required for 1989.

(e) *Paid Land Diversion (PLD)*—Thirteen respondents commented. Five respondents supported a PLD but did not specify a level. Three respondents suggested a level up to 15 percent. These comments included the following recommendations: (1) Allow the producer the option of (a) diverting from 1 to 15 percent of the upland cotton crop acreage base, (b) diverting from 0 to 20 percent of such base; (2) implementation of a 0/92-type program; and (3) no PLD. Three respondents indicated that the payment rate of 35 cents per pound times the program yield on the diverted acres would be appropriate. A PLD will not be made available because implementation of a PLD would send a signal to the world that the U.S. is willing to once again become the world's residual supplier and unilaterally make the production adjustment necessary to balance world supply and demand. Although a PLD program might help reduce supplies, stocks and Government costs in the short run, it would also raise prices overall and encourage greater foreign production in the future.

(f) *Seed Cotton Loan Rate*—Nine respondents commented. Eight respondents supported a seed cotton loan program, and one saw no need to continue it. A seed cotton recourse loan program will be made available to producers in order to provide interim financing for cotton prior to ginning. Since seed cotton loans are required to be repaid there will be no additional net CCC outlays except for administrative expenses.

(g) *Other*—Ten respondents submitted comments relating to issues for which comments were not requested. Among the comments received were two supporting implementation of an inventory reduction program. Payments under the inventory reduction program must be made in the form of upland cotton owned by CCC. Since insufficient quantities of CCC-owned cotton are available, the inventory reduction program will not be offered. This notice affirms the following determinations previously made and announced by the Secretary on October 31, 1988, with respect to the 1989 Upland Cotton Program.

#### Determinations

1. *Plan A/Plan B Marketing Loan Repayment Level*. In accordance with section 103A(a)(5) of the 1949 Act, it has been determined that Plan B of the marketing loan program will be implemented for the 1989 crop of upland

cotton. Under Plan B, 1989-crop upland cotton pledged as collateral for a price support loan may be redeemed at the lower of the adjusted world price (AWP) or the loan level.

2. *First Handler Certificates*. In accordance with section 103A(a)(5)(D) of the 1949 Act, it has been determined that, since Plan B will be in effect without a floor during the 1989 marketing year and the loan repayment rate shall equal the lower of the AWP or the loan rate, no first handler certificates will be issued.

3. *Loan Deficiency Payments*. In accordance with section 103A(b)(1)-(5) of the 1949 Act, it has been determined that loan deficiency payments will be made to eligible producers who agree to forego loan eligibility if the loan repayment rate is less than the announced loan level. The loan deficiency payment rate will equal the difference between the loan level and the loan repayment rate. Loan deficiency payments will be made in the form of cash.

4. *Acreage Reduction Program (ARP)*. In accordance with section 103A(f) of the 1949 Act, it has been determined that the acreage reduction requirement for the 1989 crop of upland cotton will be 25 percent. Accordingly, producers will be required to reduce their 1989 upland cotton plantings for harvest by at least 25 percent from the upland cotton acreage base established for a farm in order to be eligible for upland cotton price support loans, loan deficiency and deficiency payments.

5. *Paid Land Diversion (PLD) Program*. In accordance with section 103A(f)(4)(A) of the 1949 Act, it has been determined that a PLD program will not be made available for the 1989-crop of upland cotton.

6. *Seed Cotton Loan*. In accordance with section 5 of the CCC Charter Act, it has been determined that recourse loans for seed cotton will be made available to producers of upland cotton for the 1989 crop under the same provisions that were applicable to the 1988 crop of upland cotton.

7. *Other*. In accordance with section 103A(a)(1)-(2) of the 1949 Act, it has been determined that the loan level for 1989-crop upland cotton will be 50.0 cents per pound.

In accordance with section 103A(c)(1)(D) of the 1949 Act, it has been determined that the "established" target price will be 73.4 cents per pound.

In accordance with section 103A(g)(1)-(4) of the 1949 Act, it has been determined that the inventory reduction program will not be implemented.

**Authority:** Secs. 103A, and 107E, of the Agricultural Act of 1949, as amended; 99 Stat. 1407, as amended, and 1448, (7 U.S.C. 1444-1, and 1445-4); Secs. 4 and 5 of the Commodity Credit Corporation Charter Act, as amended; 62 Stat. 1070, as amended, 1072 (15 U.S.C. 714b and 714c).

Signed at Washington, DC, on February 21, 1989.

Milton J. Hertz,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 89-4626 Filed 2-27-89; 8:45 am]

BILLING CODE 3410-05-M

#### Food Safety and Inspection Service

[Docket No. 89-004N]

#### National Advisory Committee on Microbiological Criteria for Foods; Meeting

Notice is hereby given that meetings of the Meat and Poultry and Seafood Subcommittees of the National Advisory Committee on Microbiological Criteria for Foods will be held on Tuesday, Wednesday, and Thursday, March 14-16, 1989, from 8:30 a.m. to 5:00 p.m., at the Sir Francis Drake Hotel, 450 Powell Street, San Francisco, California 94101.

The Committee provides advice and recommendations to the Secretaries of Agriculture and Health and Human Services concerning the development of microbiological criteria by which the safety and wholesomeness of food can be assessed, including criteria for microorganisms that indicate whether food has been processed using good manufacturing practices.

The subcommittees, which are comprised of committee members, will be meeting to review and discuss assignments referred to them by the full committee and to prepare comments on those assignments.

The meetings are open to the public on a space available basis. Comments of interested persons may be filed prior to or following the meeting. Comments should be addressed to Catherine M. DeRoever, Director, Executive Secretariat, Food Safety and Inspection Service, Room 3175-South Building, 14th and Independence Avenue, SW., Washington, DC 20250. Background materials are available for inspection by contacting Ms. DeRoever on (202) 447-9150.

Done at Washington, DC on: February 24, 1989.

Kenneth A. Gilles,

Chairman.

[FR Doc. 89-4726 Filed 2-27-89; 8:45 am]

BILLING CODE 3410-DM-M



## DEPARTMENT OF COMMERCE

## Bureau of Export Administration

[Docket No. 90240-9040]

**Foreign Availability Assessment:  
Trichlorotrifluoroethane (F-113) and  
Solvent Formulations Containing 95%  
or More Trichlorotrifluoroethane**

**AGENCY:** Office of Foreign Availability,  
Bureau of Export Administration,  
Commerce.

**ACTION:** Notice of finding of foreign  
availability assessment.

**SUMMARY:** Pursuant to section 5(f)(3)(B) of the Export Administration Act of 1979, as amended (EAA), the Assistant Secretary for Export Administration has determined that foreign availability exists to controlled countries of trichlorotrifluoroethane (F-113) and solvent formulations containing 95% or more trichlorotrifluoroethane (controlled under ECCN 5799C on the Commodity Control List). The Assistant Secretary for Export Administration has initiated action to implement the appropriate changes in the Export Administration Regulations.

**FOR FURTHER INFORMATION CONTACT:**

Dr. Jo-Anne A. Jackson, Office of Foreign Availability, Department of Commerce, Washington, DC 20230, Telephone: (202) 377-5953.

**SUPPLEMENTARY INFORMATION:****Background**

The Office of Foreign Availability (OFA) of the Bureau of Export Administration is required by section 5(f) and (h) of the Export Administration Act of 1979, as amended (EAA), to review claims of foreign availability of items controlled for national security purposes. Part 791 of the Export Administration Regulations establishes the procedures and criteria for determining foreign availability. The Secretary of Commerce is authorized by statute to determine foreign availability, and he has delegated this authority to the Assistant Secretary for Export Administration.

Under section 5(f)(3)(B), in any case in which the Assistant Secretary for Export Administration determines that an item of comparable quality to a U.S. item controlled for national security purposes is available in fact to a controlled country from a foreign source in quantities sufficient to render the control ineffective in meeting its purposes, the Assistant Secretary may not require a validated license for its export.

In January 1989, the Office of Foreign Availability completed an assessment on the foreign availability of trichlorotrifluoroethane (F-113) and solvent formulations containing 95% or more trichlorotrifluoroethane. These substances are used for many purposes including refrigerants, cleaning agents, extinguishing agents, dielectric fluids, aerosol propellants, chemical reaction media and coolants. These chemicals are unilaterally controlled for national security purposes under ECCN 5799C on the Commodity Control List.

On January 24, 1989, the Assistant Secretary of Export Administration made a positive preliminary determination of foreign availability for the above chemicals. Pursuant to the law, the Assistant Secretary forwarded his preliminary determination and the assessment to concerned agencies for their review. The Departments of State, Energy, and Defense, the Environmental Protection Agency and other interested agencies of the U.S. Government reviewed the report.

Based upon the assessment and the statutory criteria, I hereby determine that foreign availability exists to controlled countries of trichlorotrifluoroethane (F-113) and solvent formulations containing 95% or more trichlorotrifluoroethane, as defined by law.

I also have initiated action to implement the appropriate changes in the Export Administration Regulations. The regulation changes are effective as of February 23, 1989, with the removal of unilateral national security export controls (published in *Federal Register* dated February 28, 1989). An individual validated license will be required only to Country Groups S and Z under the ECCN 6799G, which controls these items for foreign policy reasons.

If OFA receives substantive new evidence affecting this foreign availability determination, the assessment will be re-evaluated. Inquiries concerning the scope of this assessment may be directed to the Office of Foreign Availability at the above address.

Dated: February 24, 1989.

Michael E. Zacharia,  
Assistant Secretary for Export  
Administration.

[FR Doc. 89-4776 Filed 2-27-89; 8:45 am]

BILLING CODE 3510-DT-M

## Foreign-Trade Zones Board

[Docket No. 44-87]

**Proposed Foreign-Trade Zone;  
Anchorage, AK; Amendment of  
Application**

Notice is hereby given that the application submitted by the Municipality of Anchorage, Alaska, requesting authority to establish a general-purpose foreign-trade zone in Anchorage, Alaska (52 FR 48555, December 23, 1987), has been amended to expand the scope of the request. The original application requested zone status for a site at the Port of Anchorage (Site 1) and one at the Anchorage International Airport (Site 2).

The amendment calls for an additional 5 privately-owned sites in Anchorage: Site 3 (2.7 acres) consists of two adjoining parcels located at 315 E. 2nd Avenue and 316 E. 1st Avenue, owned by the Abrams/Jordan Partnership; Site 4 (25 acres), located at 1800 West 48th Avenue, is owned by David Altman and the Commodore-Greenbriar limited partnership; Site 5 (110,000 sq. ft. building) (Anchorage Trade Center) located at 619 Warehouse Avenue, is owned by a general partnership of Melvin Tipton and P.P. Tipton; Site 6 (12 acres) (Pac West site), located at 660 Ocean Dock Road, is owned by the Alaska Railroad, and is currently under long term lease to Douglas Management Company; and, Site 7 (135 acres), located near the intersection of Birchwood Loop Road and Birchwood Airport Road (20 miles NE of downtown Anchorage), is owned by Eklutna, Inc., an Alaska Native Corporation. Also, the amendment requests an additional 95 acres in the North Air Park area of Site 2.

The comment period is reopened until March 27, 1989.

The application and amendment material are available for public inspection at the following locations:

U.S. Department of Commerce, District Office, 701 C Street, Anchorage, AK 99513.

Office of the Executive Secretary,  
Foreign-Trade Zones Board, U.S.  
Department of Commerce, Room 2835,  
14th & Pennsylvania Avenue, NW.,  
Washington, DC 20230.

Dated: February 22, 1989.

John J. DaPonte, Jr.,  
Executive Secretary.

[FR Doc. 89-4620 Filed 2-27-89; 8:45 am]

BILLING CODE 3510-DS-M



**International Trade Administration****Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review**

**AGENCY:** International Trade Administration/Import Administration Department of Commerce.

**ACTION:** Notice of opportunity to request administrative review of antidumping or

countervailing duty order, finding, or suspended investigation.

Background: Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party as defined in section 771(9) of the Tariff Act of 1930 may request, in accordance with § 353.53a or § 355.10 of the Commerce Regulations, that the

Department of Commerce ("the Department") conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity to Request a review: Not later than March 31, 1989, interested parties may request administrative review of the following orders, findings or suspended investigations, with anniversary dates in March for the following periods:

	Period
<b>Antidumping Duty Proceeding:</b>	
Australia: Canned Bartlett Pears (A-602-039).....	03/01/88-02/28/89
Canada: Construction Castings (A-122-503).....	03/01/88-02/28/89
Canada: Certain Fresh Cut Flowers (A-122-604).....	03/01/88-02/28/89
Chile: Standard Carnations (A-337-602).....	03/01/88-02/28/89
Colombia: Certain Fresh Cut Flowers (A-301-602).....	03/01/88-02/28/89
Ecuador: Certain Fresh Cut Flowers (A-331-602).....	03/01/88-02/28/89
Finland: Rayon Staple Fiber (A-405-071).....	03/01/88-02/28/89
France: Brass Sheet and Strip (A-427-602).....	03/01/88-02/28/89
France: Rayon Staple Fiber (A-427-072).....	03/01/88-02/28/89
Israel: Oil Country Tubular Goods (A-508-602).....	03/01/88-02/28/89
Italy: Certain Valves and Connections of Brass, for Use in Fire Protection Systems (A-475-401).....	03/01/88-02/28/89
Italy: Brass Sheet and Strip (A-475-601).....	03/01/88-02/28/89
Japan: Ferrite Cores (of the type used in consumer electronic products) (A-588-016).....	03/01/88-02/28/89
Japan: Stainless Steel Butt-Weld Pipe and Tube Fittings (A-588-702).....	06/18/88-02/28/89
Japan: Television Receivers, Monochrome and Color (A-588-015).....	03/01/88-02/28/89
The People's Republic of China: Chloropicrin (A-570-002).....	03/01/88-02/28/89
Sweden: Brass Sheet and Strip (A-401-601).....	03/01/88-02/28/89
Thailand: Certain Circular Welded Carbon Steel Pipes and Tubes (A-549-502).....	03/01/88-02/28/89
The Federal Republic of Germany: Brass Sheet and Strip (A-428-602).....	03/01/88-02/28/89
<b>Suspended Investigation:</b>	
Brazil: Frozen Concentrated Orange Juice (C-351-005).....	01/01/88-12/31/88
Colombia: Certain Textile Mill Products and Apparel (C-301-401).....	01/01/88-12/31/88
Thailand: Certain Textile Mill Products (C-549-401).....	01/01/88-12/31/88
<b>Countervailing Duty Proceeding:</b>	
Argentina: Leather Wearing Apparel (C-357-001).....	01/01/88-12/31/88
Argentina: Textile Mill Products and Apparel (C-357-404).....	01/01/88-12/31/88
Brazil: Certain Castor Oil Products (C-351-029).....	01/01/88-12/31/88
Brazil: Cotton Yarn (C-351-037).....	01/01/88-12/31/88
Canada: Standard Carnations (C-122-603).....	01/01/88-12/31/88
Chile: Standard Carnations (C-337-601).....	01/01/88-12/31/88
France: Brass Sheet and Strip (C-427-603).....	01/01/88-12/31/88
Iran: In-Shell Pistachios (C-507-501).....	01/01/88-12/31/88
Israel: Oil Country Tubular Goods (C-508-601).....	01/01/88-12/31/88
Mexico: Certain Iron Metal Construction Castings (C-201-009).....	01/01/88-12/31/88
Mexico: Certain Textile Mill Products (C-201-405).....	01/01/88-12/31/88
Netherlands: Standard Chrysanthemums (C-421-601).....	01/01/88-12/31/88
New Zealand: Carbon Steel Wire Rod (C-614-504).....	01/01/88-09/30/88
Pakistan: Cotton Shop Towels (C-535-001).....	01/01/88-12/31/88
Peru: Certain Textile Mill Products and Apparel (C-333-402).....	01/01/88-12/31/88
South Africa: Ferrochrome (C-791-001).....	01/01/88-12/31/88
Sri Lanka: Certain Textile Mill Products and Apparel (C-542-401).....	01/01/88-12/31/88
Thailand: Certain Apparel (C-549-401).....	01/01/88-12/31/88
Turkey: Certain Welded Carbon Steel Pipe and Tube (C-489-502).....	01/01/88-12/31/88

Seven copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B-099, U.S. Department of Commerce, Washington, DC 20230.

The Department will publish in the *Federal Register* a notice of "Initiation of Antidumping (Countervailing) Duty Administrative Review," for requests received by March 31, 1989.

If the Department does not receive by

March 31, 1989 a request for review of entries covered by an order or finding listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to

collect the cash deposit previously ordered.

This notice is not required by statute, but is published as a service to the international trading community.

Joseph A. Spetrini,  
Deputy Assistant Secretary for Compliance.

Date February 21, 1989.

[FR Doc. 89-4621 Filed 2-27-89; 8:45 am]

BILLING CODE 3510-DS-M



**National Oceanic and Atmospheric Administration****Solicitation of Comments on National Marine Sanctuary Permit Application**

**AGENCY:** National Oceanic and Atmospheric Administration; National Ocean Service; Office of Ocean and Coastal Resource Management.

**ACTION:** Approval to solicit public comments for a permit to conduct archaeological research within the Point Reyes-Farallon Islands National Marine Sanctuary.

**SUMMARY:** The Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service, National Oceanic and Atmospheric Administration (NOAA) received an application entitled "The San Agustin Marine Archaeological Project" for a National Oceanic and Atmospheric Administration permit submitted by Phoenician Explorations Ltd. to conduct archaeological research within the Point Reyes-Farallon Islands National Marine Sanctuary in compliance with 36 CFR Part 800, "Protection of Historic Properties," pursuant to the National Historic Preservation Act of 1966, as amended.

Copies of the application documents and other information are available for public inspection from 9 a.m. to 5:30 p.m. at the following locations:

(1) Point Reyes-Farallon Islands National Marine Sanctuary, National Oceanic and Atmospheric Administration, GGNRA, Fort Mason, San Francisco, California 94123; (415) 556-3509.

(2) Marine and Estuarine Management Division, Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue NW., Suite 714, Washington, DC 20235; (202) 673-5126.

Comments must be submitted by March 17, 1989.

Comments and inquiries regarding this application for a permit should be addressed to: Ms. Debra Malek, Marine and Estuarine Management Division, Office of the Ocean and Coastal Resource Management, 1825 Connecticut Avenue NW., Suite 714, Washington, DC 20235, (202) 673-5126.

Dated: February 22, 1989.

Thomas J. Maginnis,

Assistant Administrator for Ocean Services and Coastal Zone Management.

(Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration)

[FR Doc. 89-4618 Filed 2-27-89; 8:45 am]

BILLING CODE 3510-08-M

**Marine Mammals; Permit Modification; Mr. Jeffrey D. Goodyear (P317A)**

Notice is hereby given that, pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR 216), and § 222.25 of the regulations governing endangered species permits (50 CFR Parts 217-222), Scientific Research Permit No. 554 issued to Mr. Jeffrey D. Goodyear, Ecology Research Group, Inc., 40 Cook Avenue-Middlebridge, South Kingstown, Rhode Island 02879, on June 12, 1986 (51 FR 23456) is modified as follows:

Section B.12 is replaced by:

12. The authority to capture or otherwise acquire these marine mammals, or to take by harassment, tagging or other activities authorized herein, shall extend from the date of issuance through December 31, 1991.

This modification became effective on December 31, 1988.

Issuance of this modification, as required by the Endangered Species Act of 1973, is based on the finding that such modification (1) was applied for in good faith, (2) will not operate to the disadvantage of the endangered species which is the subject of this modification, and (3) will be consistent with the purposes and policies set forth in Section 2 of the Endangered Species Act of 1973.

The Permit, as modified, and documentation pertaining to the modification are available for review in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1335 East West Highway, Room 7324, Silver Spring, Maryland 20910; and Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Date: February 21, 1989.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.

[FR Doc. 89-4655 Filed 2-27-89; 8:45 am]

BILLING CODE 3510-22-M

**National Technical Information Service****Intent To Grant Exclusive Patent License; Embrex, Inc.**

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Embrex, Inc., having a place of business in Research Triangle Park, N.C., an exclusive license in the United States

and certain foreign countries to practice the invention embodied in U.S. Patent Application 7-155,264, "Cloned Genes Coding for Avian Coccidiosis Antigens which Induce a Cell Mediated Response and Method of Producing the Same" for in ovo use. Prior to any license grant by NTIS, the patent rights in this invention will be assigned to the United States of America, as represented by the Secretary of Commerce.

The intended exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The intended license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the intended license would not serve the public interest.

Inquiries, comments, and other materials relating to the proposed license must be submitted to Charles A. Bevelacqua, Director, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

A copy of the instant patent application may be purchased from NTIS by telephoning Sales Desk at (703) 487-4650 or by writing to NTIS, 5285 Port Royal Road, Springfield, VA 22161.

Douglas J. Campion,

Associate Director, Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 89-4567 Filed 2-27-89; 8:45 am]

BILLING CODE 3510-04-M

**COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS****New Textile Export Visa Form for Certain Textile Products Produced in Sri Lanka**

February 21, 1989.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Issuing a directive to the Commissioner of Customs providing for the use of a new textile export visa form.

**EFFECTIVE DATE:** March 1, 1989.

**FOR FURTHER INFORMATION CONTACT:**

Kimfang Pham, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4214.

**SUPPLEMENTARY INFORMATION:**

Authority: EO 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).



The Government of Sri Lanka has notified the United States Government that beginning March 1, 1989 a new Sri Lanka Textile Visa Form will be issued for goods exported from Sri Lanka on and after March 1, 1989.

James H. Babb,

*Chairman, Committee for the Implementation of Textile Agreements.*

#### COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

February 21, 1989.

Commissioner of Customs,

*Department of the Treasury, Washington, D.C. 20229*

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of September 1, 1988 which established an export visa arrangement for certain cotton, wool, man-made fiber textiles and textile products and apparel of silk blends and vegetable fibers, produced or manufactured in Sri Lanka.

Effective on March 1, 1989, the directive of September 1, 1988 is amended to provide for the use of a new textile export visa form which will be issued by the Government of Sri Lanka for goods produced or manufactured in Sri Lanka and exported on and after March 1, 1989. The Sri Lanka Textile Visa Form will replace the Special Customs Invoice Form 5515 currently being used. The existing visa shall be stamped only on the new Sri Lanka Textile Visa Form.

A facsimile of the new form is enclosed with this letter.<sup>1</sup>

Goods produced or manufactured in Sri Lanka and exported prior to March 1, 1989 that have been visaed using the previously authorized form shall not be denied entry for consumption, or withdrawal from warehouse for consumption, into the Customs territories of the United States (i.e., the 50 States, the District of Columbia and the Commonwealth of Puerto Rico), provided they are in accordance with previous requirements.

The actions taken with respect to the authorities in Sri Lanka and with respect to imports of cotton, wool, man-made fiber textiles and textile products and apparel of silk blends and vegetable fibers from Sri Lanka have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

*Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 89-4446 Filed 2-27-89; 8:45 am]

BILLING CODE 3510-DR-M

<sup>1</sup> The form is not printed in the Federal Register but is available from the Department of Commerce, Office of Textiles and Apparel, 14th and Constitution Ave., NW, Rm. 3110, Washington, DC 20230.

#### DEPARTMENT OF DEFENSE

##### The Joint Staff; National Defense University (NDU), Board of Visitors (BOV); Meeting

**AGENCY:** National Defense University, Department of Defense.

**ACTION:** Notice of meeting.

**SUMMARY:** The President, National Defense University has scheduled a meeting of the Board of Visitors.

**DATE:** The meeting will be held between 0800-1200 and 1330-1530 on March 10, 1989.

**ADDRESS:** The meeting will be held in the Arnold Room of the Armed Forces Staff College, Norfolk, Virginia.

##### FOR FURTHER INFORMATION CONTACT:

The Director, University Plans and Programs, National Defense University, Fort Lesley, J. McNair, Washington, DC 20319-6000. To reserve space, interested persons should phone 202-475-1145.

**SUPPLEMENTARY INFORMATION:** The agenda will include present and future educational and research plans for the National Defense University and its components. The meeting is open to the public, but the limited space available for observers will be allocated on a first-come, first-served basis.

Linda Bynum,

*Alternate OSD Federal Register Liaison Officer, Department of Defense*

February 21, 1989.

[FR Doc. 89-4605 Filed 2-27-89; 8:45 am]

BILLING CODE 3810-01-M

#### Office of the Secretary

##### Defense Science Board Task Force on Defense Procurement With a Global Technology Base; Meeting

**ACTION:** Change in date of advisory committee meeting notice.

**SUMMARY:** The meeting of the Defense Science Board Task Force on Defense Procurement With a Global Technology Base scheduled for February 27, 1989 as published in the Federal Register (Vol. 54, No. 22, Page 5543, Friday, February 3, 1989, FR Doc. 89-2587) will be held on March 31, 1989.

Linda M. Bynum,

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

February 22, 1989.

[FR Doc. 89-4608 Filed 2-27-89; 8:45 am]

BILLING CODE 3810-01-M

##### Defense Science Board Task Force on National Space Launch Strategy; Meeting

**ACTION:** Change in date/location of advisory committee meeting notice.

**SUMMARY:** The meeting of the Defense Science Board Task Force on National Space Launch Strategy scheduled for March 2-3, 1989 at Science Applications International Corp., Falls Church, Virginia as published in the Federal Register (Vol. 54, No. 22, Page 5543-5544, Friday, February 3, 1989, FR Doc. 89-2588) will be held on March 30-31, 1989 at the Aerospace Corp., Los Angeles, California.

Linda M. Bynum,

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

February 22, 1989.

[FR Doc. 89-4609 Filed 2-27-89; 8:45 am]

BILLING CODE 3810-01-M

##### Meeting of the National Advisory Panel on the Education of Handicapped Dependents

**AGENCY:** Department of Defense Dependents Schools (DoDDS), Office of the Assistant Secretary of Defense (Force Management & Personnel).

**ACTION:** Notice of meeting.

**SUMMARY:** This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Panel on the Education of Handicapped Dependents. This notice also describes the functions of the Panel. Notice of this meeting is required under the National Advisory Act. This meeting is open to the public; however, due to space constraints, anyone wishing to attend should contact the Office of Dependents Schools (ODS) special education coordinator.

**DATES:** March 28, 29, and 30 from 9 a.m. to 4 p.m. daily.

**ADDRESS:** Holiday Inn, 2460 Eisenhower Avenue, Alexandria, Virginia 22306 (703/960-3400).

##### FOR FURTHER INFORMATION CONTACT:

Mrs. Trudy Paul, Special Education Coordinator, DoDDS, 2461 Eisenhower Drive, Alexandria, Virginia 22331-1100 (202/325-7810).

**SUPPLEMENTARY INFORMATION:** The National Advisory Panel on the Education of Handicapped Dependents is established under section 613 of the Education for All Handicapped Children Act of 1975 (20 U.S.C 1401, Pub. L. 94-142). The Panel is directed to: (1) Review information regarding improvements in services provided to handicapped



students in DoDDS; (2) receive and consider the views of various parents, students, handicapped individuals, and professional groups; (3) review the findings of fact and decision of each impartial due process hearing; (4) assist in developing and reporting such information and evaluations as may aid DoDDS in the performance of its duties; (5) make recommendations based on program and operational information for changes in the budget, organization, and general management of the special education program, and in policy and procedure; (6) comment publicly on rules or standards regarding the education of handicapped children; and (7) submit an annual report of its activities and suggestions to the Director, DoDDS, by July 31 of each year. The Panel will review the following areas: staff development, special education program evaluation, administration, and budget.

L.M. Bynum,

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

February 21, 1989.

[FR Doc. 89-4607 Filed 2-27-89; 8:45 am]

BILLING CODE 3810-01-M

## Office of the Secretary of Defense

### Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, March 7, 1989; Tuesday, March 14, 1989; Tuesday, March 21, 1989; and Tuesday, March 28, 1989 at 10:00 a.m. in Room 1E801, The Pentagon, Washington, DC.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Force Management and Personnel) concerning all matters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Pub. L. 92-392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92-463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C. 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b.(c)(2)), and those involving "trade secrets and

commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b.(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b.(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b.(c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D264, The Pentagon, Washington, DC 20301.

L.M. Bynum,

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

February 21, 1989.

[FR Doc. 89-4611 Filed 2-27-89; 8:45 am]

BILLING CODE 3810-01-M

## Department of the Air Force

### Intent To Prepare an Environmental Impact Statement for the Transmitter Site, Northeast Regional Communications Facility

The Air Force, representing the National Communications System, proposes to construct and operate the Northeast Regional Communications Facility (NRCF) to provide needed additional capacity for domestic and overseas Federal communications. The National Communications System is a confederation of 23 government agencies involved in planning and coordinating communication system requirements for the entire Federal Government. The NRCF transmitter is proposed for the Barnegat site near Warren Grove, New Jersey.

Scoping meetings will be held to determine the significant environmental issues to be addressed in the Environmental Impact Statement. Times, dates and places of the meetings will be announced locally at a later date.

For further information concerning the proposed actions, interested persons may contact: Mr. Richard A. DiCamillo,

HQ USAF/PRPJB, Pentagon Room 5C966, Washington, DC 22030.

Patsy J. Conner,

*Air Force Federal Register Liaison Officer.*

[FR Doc. 89-4643 Filed 2-27-89; 8:45 am]

BILLING CODE 3810-01-M

## Department of the Army

### Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act Pub. L. 92-463, announcement is made of the following Committee Meeting:

*Name of the Committee:* Army Science Board (ASB).

*Dates of Meeting:* 15-16 March 1989.

*Time:* 0800-1700 hours, 15 March, 0800-1200 hours, 16 March.

*Place:* Warren, Michigan.

*Agenda:* The members of the Army Science Board's independent review of a product improvement program for the M-1 Tank will hold a second meeting. This meeting will be hosted by the Project Manager-Abrams Tank at Tank Automotive Command Headquarters. Discussions will be focused on the present capabilities and planned improvements to the M-1 Tank target acquisition and fire control system. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified and unclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-3039/7046.

Sally A. Warner,

*Administrative Officer, Army Science Board.*

[FR Doc. 89-4492 Filed 2-27-89; 8:45 am]

BILLING CODE 3710-08-M

## Defense Communications Agency

### Joint Tactical Command, Control and Communications Agency; High Frequency (HF) Information Exchange Meeting

**AGENCY:** Joint Tactical Command, Control and Communications Agency (JTC3A).

**ACTION:** Notice.

**SUMMARY:** the JTC3A has arranged a High Frequency Information Exchange



Meeting on 20-23 March 1989 for interested DoD and other government parties. The meeting will provide a forum on HF communications requirements, standards, development efforts, programs and interoperability. Interested government parties who require further information should contact the JTC3A personnel below.

While industry attendance will not be permitted during this government-only meeting, the JTC3A invites HF communications equipment manufacturers to make a limited amount of product information (e.g., brochures) available at the meeting site for the benefit of interested government attendees. The equipment categories of greatest interest are those which significantly affect end-to-end radio interoperability (e.g., modems, link establishment devices, anti-jam equipment).

The meeting will be held at BDM Corporation facilities in McLean, VA. Product information materials should be sent by the week of 13 March to BDM Corporation, Engineering Services Company, ATTN: Ms. Kimberly Moore, 7915 Jones Branch Drive, McLean, VA, 22102. Mark materials for the JTC3A HF Information Exchange Meeting.

**FOR FURTHER INFORMATION CONTACT:** At JTC3A: LCDR Tom Grodek, USN, or Maj Pete Waricka, USAF, Communications Branch, Technology Directorate, JTC3A, (201) 532-7719. At BDM Corporation: Ms. Kimberly Moore, (703) 848-5017, or Ms. Michele Kirk, (703) 848-6497, BDM Engineering Services Company.

L.M. Bynum,

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

February 22, 1989.

[FR Doc. 89-4610 Filed 2-27-89; 8:45 am]

BILLING CODE 3810-01-M

## DEPARTMENT OF EDUCATION

### Notice of Proposed Information Collection Requests

**AGENCY:** Department of Education.

**ACTION:** Notice of proposed information collection requests.

**SUMMARY:** The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

**DATE:** Interested persons are invited to submit comments on or before March 30, 1989.

**ADDRESSES:** Written comments should be addressed to the Office of

Information and Regulatory Affairs, Attention: Jim Houser, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202.

**FOR FURTHER INFORMATION CONTACT:** Margaret B. Webster (202) 732-3915.

**SUPPLEMENTARY INFORMATION:** Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Office of Information Resources Management, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following:

(1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: February 23, 1989.

Carlos U. Rice,

*Director for Office of Information Resources Management.*

### Office of Special Education and Rehabilitative Services

**Type of Review:** Reinstatement.

**Title:** Annual Report on Post-Employment Services and Annual Reviews.

**Frequency:** Annually.

**Affected Public:** State or Local governments.

**Reporting Burden:**

*Responses:* 86

*Burden Hours:* 74

**Recordkeeping Burden:**

*Recordkeepers:* 0

**Burden Hours:** 0

**Abstract:** State Vocational Rehabilitative (VR) agencies submit this report to the Department on the post-employment status of handicapped individuals. The Department uses the information collected to monitor post-closure activities of the VR clientele.

### Office of Special Education and Rehabilitative Services

**Type of Review:** Extension.

**Title:** Quarterly Cumulative Caseload Report.

**Frequency:** Quarterly.

**Affected Public:** State or local governments.

**Reporting Burden:**

*Responses:* 84

*Burden Hours:* 336

**Recordkeeping Burden:**

*Recordkeepers:* 84

*Burden Hours:* 84

**Abstract:** State Vocational Rehabilitative (VR) agencies report caseload data. The Department uses the information collected to assess the accomplishments of program goals and objectives and to aid in effective program management.

### Office of Postsecondary Education

**Type of Review:** Revision.

**Title:** Fiscal Operations Report and Application to Participate in the Perkins Loan, Supplemental Educational Opportunity Grant, and College Work-Study Programs

**Frequency:** Annually.

**Affected Public:** State and Local Government, businesses or other for-profit, non-profit Institutions.

**Reporting Burden:**

*Responses:* 5,300

*Burden Hours:* 142,799

**Recordkeeping Burden:**

*Recordkeepers:* 5,300

*Burden Hours:* 424

**Abstract:** Under the Higher Education Act of 1965, as amended, institutions are required to apply and subsequently report the expenditures for the Perkins Loan (formerly the National Direct Student Loan), the Supplemental Educational Opportunity Grant, and the College Work Study Programs, on an annual basis. The data collected on the report and application will be used to assess program effectiveness and accountability of funds expended during the award period 1988-89 and to compute the amount of funds needed by each institution during the 1990-91 award year.

[FR Doc. 89-4653 Filed 2-27-89; 8:45 am]

BILLING CODE 4000-01-M



**Office of Postsecondary Education****Paul Douglas Teacher Scholarship Program; Fiscal Year 1989****AGENCY:** Department of Education.**ACTION:** Notice of closing date for receipt of state applications for fiscal year 1989.

**SUMMARY:** The Secretary gives notice of the closing date for receipt of State applications for fiscal year 1989 State allotments under the Paul Douglas Teacher Scholarship Program for scholarships for academic year 1989-90. This program is a Federally funded program to provide college scholarships to outstanding high school graduates to enable and encourage them to pursue teaching careers at the preschool, elementary school, or secondary school level.

Authority for this program is contained in Title V, Part D, Subpart 1 of the Higher Education Act of 1965, as amended (HEA).

A State that desires to receive fiscal year 1989 Paul Douglas Teacher Scholarship Program funds must submit an application as provided for under the authorizing law. The State must provide the information requested in section 553 of the HEA and should be guided by the program regulations (34 CFR 653.20). The Secretary is authorized to accept applications from the 50 States, the District of Columbia, Puerto Rico, American Samoa, Guam, the Northern Mariana Islands, the Virgin Islands, and the Republic of Palau, provided it remains a trust territory. (The future eligibility of the Republic of Palau will be determined by the provisions of the Compact of Free Association.) However, a State that has submitted an application that was subsequently approved by the Secretary for this program need not submit an application to receive its fiscal year 1989 program allotment.

**Closing Date for Transmittal of Application:** An application for fiscal year 1989 Paul Douglas Teacher Scholarship Program funds must be mailed or hand-delivered by March 31, 1989.

**Applications Delivered by Mail:** An application sent by mail must be addressed to the U.S. Department of Education, Office of Student Financial Assistance, 400 Maryland Avenue SW., Washington, DC 20202, Attention: Mr. Fred Sellers, Chief, State Student Incentive Grant Section, Room 4018, ROB #3.

An applicant must show proof of mailing consisting of one of the following: (1) A dated U.S. Postal

Service postmark; (2) a legible mail receipt with the date of mailing stamped by the U.S. Postal Service; (3) a dated shipping label, invoice or receipt from a Commercial Carrier; or (4) any other proof of mailing acceptable to the Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark; or (2) mail receipt that is not dated by the U.S. Postal Service. An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office. An applicant is encouraged to use registered or at least first-class mail.

Each late applicant will be notified that it cannot be assured that its application will be considered for fiscal year 1989 funding.

**Applications Delivered by Hand:** An application that is hand-delivered must be taken to the U.S. Department of Education, Office of Student Financial Assistance, 7th and D Streets SW., Room 4018, GSA Regional Office Building #3, Washington, DC. Hand-delivered applications will be accepted between 8 a.m. and 4:30 p.m. daily (Washington, DC time), except Saturdays, Sundays, and Federal holidays.

An application that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

**Available Funds:** The Congress appropriated \$17.235 million for fiscal year 1989.

**Program Information:** The Secretary requires the submission of an application followed by the approval of that application by the Secretary for a State to receive Paul Douglas Teacher Scholarship Program funds. State allotments are determined by the statutorily mandated population formula and are not subject to negotiation.

**Application Information:** There is no required application form for receiving Paul Douglas Teacher Scholarship Program funds. Applications must be prepared and submitted in accordance with the authorizing law and the program regulations cited in this notice. The Secretary strongly urges that applicants not submit information that is not requested.

**Applicable Regulations:** The following regulations are applicable to the Paul Douglas Teacher Scholarship Program:

(1) The Paul Douglas Teacher Scholarship Program final regulations (34 CFR Part 653).

(2) The Education Department General Administrative Regulations

(EDGAR) in 34 CFR Part 76 (State-Administered Programs), Part 77 (Definitions That Apply to Department Regulations), Part 79 (Intergovernmental Review of Department of Education Programs and Activities), Part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments), and Part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

**Intergovernmental Review:** This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

Immediately upon receipt of this notice, applicants that are governmental entities must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order.

In States that have not established a process for or chosen this program for review, State, area-wide, regional, and local entities may submit comments directly to the Department.

All comments from State single points of contact and all comments from State, area-wide, regional, and local entities must be mailed or hand delivered by April 30, 1989 to the following address: The Secretary, U.S. Department of Education, Room 4181, (CFDA No. 84.176), 400 Maryland Avenue SW., Washington, DC 20202.

Please note that the above address is not the same address as the one to which the applicant submits its completed application. Do not send applications to the above address.

**FOR FURTHER INFORMATION CONTACT:** Mr. Fred Sellers, Chief, State Student Incentive Grant Section, Office of Student Financial Assistance, U.S. Department of Education, Washington, DC 20202; telephone (202) 732-4507.



Dated: February 17, 1989.

**Kenneth D. Whitehead,**

*Assistant Secretary for Postsecondary Education.*

(Catalog of Federal Domestic Assistance Number 84.176, Paul Douglas Teacher Scholarship Program)

[FR Doc. 89-4654 Filed 2-27-89; 8:45 am]

BILLING CODE 4000-01-M

### **Advisory Committee on Student Financial Assistance Symposium on Institutional Lending**

**AGENCY:** Advisory Committee on Student Financial Assistance.

**ACTION:** Notice of advisory committee meeting.

**SUMMARY:** This notice sets forth the schedule and proposed agenda of a forthcoming symposium on institutional lending hosted by the Advisory Committee on Student Financial Assistance. This notice also describes the functions of the Committee. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of the opportunity to attend.

**DATE:** March 13, 1989 beginning at 9:00 a.m. and ending at 5:00 p.m.

**ADDRESS:** Senate Dirksen Office Building, Room 430, First and New Jersey Avenue NW., Washington, DC 20510.

**FOR FURTHER INFORMATION CONTACT:** Brian K. Fitzgerald, Staff Director, Advisory Committee on Student Financial Assistance, Room 4600, ROB-3, 7th & D Streets SW., Washington, DC 20202-7582 (202) 732-3439.

**SUPPLEMENTARY INFORMATION:** The Advisory Committee on Student Financial Assistance is established under section 491 of the Higher Education Act of 1965 as amended by Pub. L. 100-50 (20 U.S.C. 1098). The Advisory Committee is established to provide advice and counsel to the Congress and the Secretary of Education on student financial aid matters, including providing technical expertise with regard to systems of need analysis and application forms and making recommendations that will result in the maintenance of access to postsecondary education for low- and middle-income students. The Congress also mandated that the Advisory Committee conduct a thorough study of institutional lender policy in the Stafford Student Loan Program.

The Advisory Committee will meet in Washington, DC from 9:00 a.m. to 5:00 p.m. on March 13.

The proposed agenda includes:  
(a) Overview of analytical issues relating to institutional lending  
(b) Discussion sessions on the following issues:

- Effects of Elimination of Current Lending Criteria on Institutions, Students and Parents
- The Effects of Elimination of Current Lending Criteria on Banks
- The Effects of Elimination of Current Lending Criteria on Guarantee Agencies, Secondary Markets, and Servicing Organizations
- Alternative to the Elimination of Current Lending Criteria.

Records are kept of all Committee proceedings, and are available for public inspection at the Office of the Advisory Committee on Student Financial Assistance, Room 4600, 7th and D Streets SW., Washington, DC from the hours of 9:00 a.m. to 5:30 p.m., weekdays, except Federal holidays.

Dated: February 22, 1989.

**Brian K. Fitzgerald,**

*Staff Director, Advisory Committee on Student Financial Assistance.*

[FR Doc. 89-4619 Filed 2-27-89; 8:45 am]

BILLING CODE 4000-01-M

### **DEPARTMENT OF ENERGY**

#### **Nuclear Waste Technical Review Board; Meeting**

At the request of the Nuclear Waste Technical Review Board and pursuant to the authority under Title V, Subtitle A, Part E, section 5051 of Pub. L. 100-203, the Nuclear Waste Policy Amendments Act of 1987, notice is hereby given that a meeting of the Nuclear Waste Technical Review Board will be held on Tuesday, March 7, 1989, from 9:00 a.m.—4:30 p.m., and on Wednesday, March 8, 1989, from 9:00 a.m.—4:30 p.m. in room 1E-245 of the Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

The purpose of this meeting is to obtain information on specific subjects which the Nuclear Waste Technical Review Board has requested from the Department of Energy (DOE). On Tuesday, March 7, 1989, the Board will be briefed by DOE officials on the program history and organization, site characterization and engineered system. On Wednesday, March 8, 1989, DOE officials will brief the Board on regulatory compliance, transportation, monitored retrievable storage, and quality assurance.

Members of the public are permitted to attend these meetings only as observers. The meetings will be

transcribed and procedures to obtain transcripts will be provided at the meeting. To ensure that adequate facilities are provided for public attendance, persons planning to attend should contact Monica Ficaretta on (202) 586-8886 by 5:00 p.m. (EST), Friday, March 3, 1989. The Forrestal Building is a secured building and prior arrangements will need to be made for attendance by the public.

Further information on these meetings can be obtained from Monica Ficaretta, Department of Energy (RW-422), 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-8886.

Because the permanent office and administrative provisions for the Nuclear Waste Technical Review Board have not as yet been established, the Board has specifically requested that the Department of Energy make these arrangements and publish this meeting notice.

Dated: February 24, 1989.

**Franklin G. Peters,**

*Acting Director, Office of Civilian Radioactive Waste Management.*

[FR Doc. 89-4768 Filed 2-27-89; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 89-04-NG]

#### **Valero Industrial Gas, L. P.; Order Amending a Blanket Authorization To Export Natural Gas to Mexico**

**AGENCY:** Office of Fossil Energy, Department of Energy.

**ACTION:** Notice of Order Amending a Blanket Authorization to Export Natural Gas to Mexico.

**SUMMARY:** The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order amending an existing two-year export authorization previously granted to Valero Industrial Gas, L. P. (Vigas), that increases the volume of natural gas authorized for export to Mexico by an additional 27.5 Bcf over the remainder of the current term ending November 1, 1989. The additional gas will be sold to Petroleos Mexicanos, Mexico's national oil company, to serve the cities of Piedras Negras and Monterrey.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.



Issued in Washington, DC, February 22, 1989.

J. Allen Wampler,

Assistant Secretary, Fossil Energy.

[FR Doc. 89-4897 Filed 2-27-89; 8:45 am]

BILLING CODE 6450-01-M

## Office of Conservation and Renewable Energy

(Case No. RF-005)

### Energy Conservation Program for Consumer Products; Decision and Order Granting Waiver From Test Procedures for Refrigerators, Refrigerator-Freezers, and Freezers to Amana Refrigeration, Inc.

AGENCY: Department of Energy.

ACTION: Decision and Order.

**SUMMARY:** Notice is given of the Decision and Order (Case No. RF-005) granting Amana Refrigeration, Inc. (Amana), a waiver for its model DE-25 variable defrost control refrigerator-freezer from existing DOE test procedures for determining the model's energy consumption.

#### FOR FURTHER INFORMATION CONTACT:

Douglass S. Abramson, U.S. Department of Energy, Office of Conservation and Renewable Energy, Forrestal Building, Mail Station, CE-132, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9127.

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Forrestal Building, Mail Station, GC-12, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9507.

**SUPPLEMENTARY INFORMATION:** In accordance with 10 CFR 430.27(g), notice is hereby given of the issuance of the Decision and Order as set out below. Amana Refrigeration, Inc. has been granted a waiver for its model DE-25 variable defrost control refrigerator-freezer series, permitting the company to use an alternate test method in determining the energy consumption.

Issued in Washington, DC, February 16, 1989.

John R. Berg,

Assistant Secretary, Conservation and Renewable Energy.

## Decision and Order

Department of Energy

Office of Conservation and Renewable Energy

In the matter of: Amana Refrigeration, Inc. (Case No. RF-005).

The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant

to the Energy Policy and Conservation Act (EPCA), Pub. L. 94-163, 89 Stat. 917, as amended by the National Energy Conservation Policy Act (NECPA), Pub. L. 95-619, 92 Stat. 3266, the National Appliance Energy Conservation Act of 1987 (NAECA), Pub. L. 100-12, and the National Appliance Energy Conservation Amendment of 1988 (NAECA 1988), Pub. L. 100-357, which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including refrigerators, refrigerator-freezers, and freezers. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These test procedures appear at 10 CFR Part 430, Subpart B.

DOE has amended the prescribed test procedures by adding 10 CFR 430.27 on September 26, 1980, creating the waiver process. 45 FR 64108. DOE further amended the Department's appliance test procedure waiver process to allow the Assistant Secretary for Conservation and Renewable Energy to grant an interim waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures. 51 FR 42823, November 26, 1986. The waiver process allows the Assistant Secretary for Conservation and Renewable Energy to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of a waiver.

Amana Refrigeration, Inc., (Amana) filed both a "Petition for Waiver" and "Application for Interim Waiver," dated October 10, 1988, in accordance with § 430.27 of 10 CFR Part 430. DOE granted the "Application for Interim Waiver" under section § 430.27(g) on December 1, 1988 and published it in the Federal Register on December 8, 1988. Amana's petition for waiver was published in the Federal Register on December 8, 1988, soliciting comments, data and information respecting the petition. 53 FR 49590.

No comments were received concerning the "Petition for Waiver." DOE consulted with the Federal Trade Commission (FTC), concerning the

Amana petition on January 4, 1989. The FTC had no opposition to the issuance of the waiver to Amana.

## Assertions and Determinations

Amana's petition sought a waiver from the DOE test provisions that require the energy consumption of refrigerator-freezers be determined by Appendix A1 of Subpart B of 10 CFR 430. Amana stated that the existing test procedure does not adequately evaluate the true energy consumption of its product because there is no provision in the existing test procedure to determine the interval between defrost cycles for a refrigerator-freezer with a variable defrost control. Amana believes that the existing test procedure is likely to incorrectly estimate the energy consumption of these models, thereby, misleading the consumer. Since the current DOE test procedures do not address this control feature, Amana asked that the waiver be granted. Amana requested approval to perform testing to determine the energy consumption of its variable defrost models in accordance with the DOE variable defrost test procedure as proposed and published in the Federal Register on September 26, 1988. 53 FR 37416.

Amana identified four current waivers which DOE had issued for similar control features. Three of the four were issued to Whirlpool Corporation, Case No. RF-001, 50 FR 1628, Jan. 11, 1985, Case Nos. RF-003 and RF-004, 51 FR 36591, Oct. 14, 1986. The fourth waiver was issued to White Consolidated Industries, Case No. RF-002, 51 FR 15679, April 26, 1986.

Based on the information provided by the petitioner and the Department's review, DOE is granting Amana's request for the use of an alternate test procedure to determine the energy consumption for its model DE-25 variable defrost control refrigerator-freezer with modifications.

It is, therefore, ordered that:

(1) The "Petition for Waiver" filed by Amana Refrigeration, Inc., (RF-005) is hereby granted as set forth in paragraph (2) below, subject to the provisions of paragraphs (3), (4) and (5).

(2) Notwithstanding any contrary provisions of Appendix A-1 of 10 CFR Part 430 Subpart B, Amana Refrigeration, Inc. shall be permitted to test its model DE-25 refrigerator-freezer on the basis specified in 10 CFR Part 430, with the modifications set forth below:

(i) Add: section 4.1.2.2 Variable defrost control. If the model being tested has a variable defrost control system,



the test shall consist of three parts. Two parts shall be the same as the test for Long-time automatic defrost (section 4.1.2.1). The third part is to determine the time between defrost (section 5.2.1.3).

(ii) Add the following to the end of section 5.1.2.: For models equipped with variable defrost controls, compartment temperatures shall be those measured in the first part of the test period specified in 4.1.2.2 above.

(iii) Add: section 5.2.1.3 Variable defrost control. The energy consumption in kilowatt-hours per day shall be calculated equivalent to:

$$ET = (1440 \times EP1/T1) + (EP2 - (EP1 \times T2/T1)) \times (12/CT) \text{ where } ET \text{ and } 1440 \text{ are defined in 5.2.1.1 and } EP1, EP2, T1, T2 \text{ and } 12 \text{ are defined in 5.2.1.2}$$

$$CT = (CT_L \times CT_M) / (F \times (CT_M - CT_L) + CT_L)$$

$CT_L$  = least or shortest time between defrosts (not less than 12 hours)

$CT_M$  = maximum time between defrost cycles in tenths of an hour (greater than  $CT_L$  but not more than 84 hours)

$F$  = ratio of per day energy consumption in excess of the least energy and the maximum difference in per day energy consumption

$$F = (1/CT - 1/CT_M) / (1/CT_L - 1/CT_M)$$

$$= (ET - ET_L) / (ET_M - ET_L)$$

or  $F = 0.20$  in lieu of testing to find  $CT$

$ET_L$  = least electrical energy used (kilowatt hours)

$ET_M$  = maximum electrical energy used (kilowatt hours)

$$CT = MTBD \times 0.5$$

where

MTBD = mean time between defrosts

$$MTBD = \frac{\sum X}{N}$$

where

$X$  = time between defrost cycles

$N$  = number of defrost cycles

(3) The waiver shall remain in effect from the date of issuance of this Order until the Department of Energy prescribes final test procedures appropriate to the model DE-25 refrigerator-freezer manufactured by Amana Refrigeration, Inc.

(4) This waiver is based upon the presumed validity of statements, allegations, and documentary materials submitted by the applicant. This waiver may be revoked or modified at any time upon a determination that the factual basis underlying the application is incorrect.

(5) Effective February 16, 1989, this waiver supersedes the Interim Waiver granted Amana on December 1, 1988. 53 FR 49590, Dec. 8, 1988.

Issued in Washington, DC, February 16, 1989.

John R. Berg,

Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 89-4636 Filed 2-27-89, 8:45 am]  
BILLING CODE 6450-01-M

## Federal Energy Regulatory Commission

[Project Nos. 2833-017, et al.]

### Hydroelectric Applications (Public Utility District No. 1, et al.)

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

- a. *Type of Application*: Supporting Design Report.
- b. *Project No.*: 2833-017.
- c. *Date Filed*: September 16, 1988.
- d. *Applicant*: Public Utility District No. 1 of Lewis County, Washington.
- e. *Name of Project*: Cowlitz Falls.
- f. *Location*: Lewis County, Washington.
- g. *Filed Pursuant to*: Article 29 of the license issued June 30, 1988.
- h. *Applicant Contact*: Gary H. Kalich, Lewis County Public Utility District, Chehalis, Washington 98532, (206) 748-9261.
- i. *FERC Contact*: Robert A. Crowley—(202) 376-9053.
- j. *Comment Date*: March 30, 1989.
- k. *Description of Project*: The licensee proposes to relocate the project works downstream from the site approved by the Commission on June 30, 1988, and redesign the project to integrate the powerhouse with the dam.
- l. This notice also consists of the following standard paragraphs B, C, and D2.

- a. *Type of Filing*: Conduit Exemption.
- b. *Project No.*: 10325-002.
- c. *Date Filed*: December 27, 1988.
- d. *Applicants*: Draper Irrigation Company.
- e. *Name of Project*: Big Willow Creek Hydroelectric Project.
- f. *Location*: On Big Willow Creek near the town of Draper, in Salt Lake County, Utah.
- g. *Filed Pursuant to*: Section 408 of the Energy Security Act of 1980, 16 U.S.C. 2705 and 2708 as amended.
- h. *Applicant Contact*: Alden C. Robinson, Sunrise Engineering, Inc., 71 West Center Street, P.O. Box 186, Fillmore, UT 84631, (801) 743-6151.
- i. *FERC Contact*: Thomas Dean, (202) 376-9562.
- j. *Comment Date*: March 31, 1989.
- k. *Description of Application*: The proposed project would consist of: (1) A powerhouse at elevation 4,990 feet msl

containing a single generating units with an installed capacity of 550 kW. Water discharged from the powerhouse will enter the Draper Irrigation Company water treatment facility. The applicant estimates the average annual energy production to be 2,107 MWh.

l. *Purpose of Project*: Applicant intends to sell the power generated from the proposed facility to Utah Power & Light.

m. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D3b.

- a. *Type of Application*: Exemption (5MW or less).
- b. *Project No.*: 10690-000.
- c. *Date Filed*: November 9, 1988.
- d. *Applicant*: Utah Power & Light Company.
- e. *Name of Project*: Fountain Green Hydroelectric Project.
- f. *Location*: On Big Springs in Sanpete County, Utah.
- g. *Filed Pursuant to*: Federal Power Act 16 U.S.C. 791(a)-825(r).
- h. *Applicant Contact*: Ms. Jody L. Williams, 1407 West North Temple, Salt Lake City, Utah 84140, (801) 220-2851.
- i. *FERC Contact*: Nanzo T. Coley (202) 376-9416.
- j. *Comment Date*: March 23, 1989.
- k. *Description of Project*: The proposed project would consist of: (1) An existing earthfill dam that is 160 feet long and 25 feet high; (2) an existing reservoir with a surface area of 0.5 acre and a storage capacity of 3 acre-feet; (3) an existing 20 to 22 inch, 6,064-foot-long conduit and an existing 12 to 20 inch, 70-foot-long conduit; (4) an existing powerhouse containing two generating units rated at 160 kW each; (5) an existing 230-foot-long, 46-kV transmission line; and (6) appurtenant facilities. The estimated average annual energy output is 1,000,000 kWh.
- l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D3a.
- a. *Type of Filing*: Preliminary Permit.
- b. *Project No.*: 10701-000.
- c. *Date Filed*: December 5, 1983.
- d. *Applicant*: Ronald E. Whalen.
- e. *Name of Project*: Wolf Lake Waterpower Project.
- f. *Location*: Occupies lands in the Tongass National Forest, on Wolf Creek near the town of Hollis, on Prince of Wales Island, Alaska. (Township (T) 74S Range (R) 81E; T 74S R 82E; T 74S R 83E; T 73S R 83E Copper River Meridian).
- g. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 791(a)-825(r).



h. *Applicant Contact:* Mr. Ronald E. Whalen, P.O. Box 9201, Ketchikan, AK 99901, (206) 378-2487.

i. *FERC Contact:* Thomas Dean, (202) 376-9562.

j. *Comment Date:* April 26, 1989.

k. *Description of Application:* The proposed project would consist of: (1) A 12-foot-high diversion structure with an inlet elevation of 1,140 feet msl; (2) a 21-inch-diameter, 1.3-mile-long penstock leading to; (3) a powerhouse containing a single generating unit with an installed capacity of 1 MW; (4) a 50-foot-long tailrace; and (5) a 25-mile-long, 13.8-kV transmission line.

The applicant estimates the average annual energy production to be 4 GWh. The approximate cost of the studies under the permit would be \$15,000.

l. *Purpose of Project:* Applicant intends to sell the power generated from the proposed facility to a public or private utility.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

a. *Type of Filing:* Preliminary Permit.

b. *Project No.:* 10719-000.

c. *Date Filed:* January 18, 1989.

d. *Applicant:* Mt. Morris Hydro Partners.

e. *Name of Project:* Mt. Morris Dam Project.

f. *Location:* On the Genesee River in Livingston County, New York.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. William S. Fowler, Mitex, Inc., 91 Newbury Street, Boston, MA 02116, (617) 424-1888.

i. *FERC Contact:* Steven H. Rossi, (202) 376-9814.

j. *Comment Date:* April 14, 1989.

k. *Description of Project:* The proposed project would utilize the existing U.S. Army Corps of Engineers; Mt. Morris Dam and would consist of: (1) Two existing 18-foot-diameter, 250-foot-long concrete penstocks; (2) a new powerhouse containing one generating unit with a capacity of 8,300 kW; (3) a new transmission line, 7,000 feet long; and (4) appurtenant facilities. The applicant estimates the average annual generation would be 51,700,000 kWh. The applicant estimates that the cost of studies under permit would be \$225,000.

l. *Purpose of Project:* Project power would be sold to the Niagara Mohawk Power corporation.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

a. *Type of Application:* Amendment of License.

b. *Project No.:* 3044-007.

c. *Date Filed:* December 7, 1988.

d. *Applicant:* Arkansas Electric Cooperative Corp.

e. *Name of Project:* Lock and Dam No. 9.

f. *Location:* On the Arkansas River in Pope and Conway Counties, Arkansas.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. Robert M. Lyford, Arkansas Electric Cooperative Corporation, P.O. Box 9469, Little Rock, AR 72219, (501) 570-2268.

i. *FERC Contact:* Ken Fearon, (202) 376-9789.

j. *Comment Date:* March 16, 1989.

k. *Description of Application:* Licensee has requested that: (1) The time for commencement of construction of the proposed project be extended to July 20, 1991 and the time for completion of construction of the proposed project be extended to July 20, 1996.

The license was issued on July 20, 1983, and would expire on June 30, 2033. The requested amendment has been made pursuant to section 15 of the Electric Consumers Protection Act of 1986, Pub. L. No. 99-495 (Oct. 18, 1986).

m. This notice also consists of the following standard paragraphs: B, C, and D2.

#### Standard Paragraphs

A3. Development Application—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application.

Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a

competing development application must submit to the Commission, on or before the specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a development application (specify which type of application), and be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents



must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, D.C. 20426. An additional copy must be sent to Dean Shumway, Director, Division of Project Review, Federal Energy Regulatory Commission, Room 203-RB, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

**D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to be sent to the Applicant's representatives.**

**D3a. Agency Comments—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agency(ies) are required, for the purposes set forth in Section 408 of the Energy Security Act of 1980, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, state and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.**

**D3b. Agency Comments—The Commission requests that, for the purposes provided in Section 408 of the Energy Security Act of 1980, the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the state fish and game agency(ies) file, within 45 days from the date of issuance of this**

**notice, appropriate terms and conditions to protect any fish and wildlife resources, or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, the Commission will presume that the agency has none. Other Federal, state, and local agencies are requested to provide any comments related to their duties and responsibilities. No other formal requests for comments will be made. Agencies should confine comments to substantive issues relevant to the granting of an exemption. If any agency does not file comments within 45 days from the date of issuance of this notice, the Commission will presume that the agency has none. One copy of an agency's comments must also be sent to the applicant's representatives.**

Dated: February 22, 1989.

Lois D. Cashell,  
Secretary.

[FR Doc. 89-4542 Filed 2-27-89; 8:45 am]  
BILLING CODE 6717-01-M

#### [Project No. 2474 New York]

#### Niagara Mohawk Power Corp.; Intent To File an Application for a New License

February 22, 1989

Take notice that on December 29, 1988, Niagara Mohawk Power Corporation, the existing licensee for the Oswego River Hydroelectric Project No. 2474, filed a notice of intent to file an application for a new license, pursuant to section 15(b)(1) of the Federal Power Act (Act), 16 U.S.C. 808, as amended by section 4 of the Electric Consumers Protection Act of 1986, Pub. L. 99-495. The original license for Project No. 2474 was issued effective April 1, 1962, and expires December 31, 1993.

The project is located on the Oswego River in Oswego County, New York. The principal works of the Oswego River Project, which utilizes water impounded by New York State owned dams, include the Fulton Powerhouse with an installed capacity of 1,250 kW; the Minetto Powerhouse with an installed capacity of 8,000 kW; the Varick Powerhouse with an installed capacity of 8,800 kW; transmission line connections; and appurtenant facilities.

Pursuant to section 15(b)(2) of the Act, the licensee is required to make available certain information described

in Docket No. RM87-7-000, Order No. 496 (Final Rule issued April 28, 1988). A copy of this Docket can be obtained from the Commission's Public Reference Branch, Room 1000, 825 North Capitol Street, NE., Washington, DC 20426. The above information as described in the rule is now available from the licensee at 300 Erie Boulevard West, Building A-1, Syracuse, NY 13202, Attn: Barbara J. Raymond, telephone (315) 428-6353.

Pursuant to section 15(c)(1) of the Act, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by December 31, 1991.

Lois D. Cashell,  
Secretary.

[FR Doc. 89-4550 Filed 2-27-89; 8:45 am]  
BILLING CODE 6717-01-M

#### [Project No. 2535 Georgia & South Carolina]

#### South Carolina Electric & Gas Co.; Intent To File an Application For a New License

February 22, 1989

Take notice that on December 29, 1988, South Carolina Electric & Gas Company, the existing licensee for the Stevens Creek Hydroelectric Project No. 2535, filed a notice of intent to file an application for a new license, pursuant to section 15(b)(1) of the Federal Power Act (Act), 16 U.S.C. 808, as amended by section 4 of the Electric Consumers Protection Act of 1986, Pub. L. 99-495. The original license for Project No. 2535 was issued effective July 20, 1960, and expires December 31, 1993.

The project is located on the Savannah River in Columbia County, Georgia, and Edgefield County, South Carolina. The principal works of the Stevens Creek Project include a 2,700-foot-long dam with a 390-foot-long powerhouse section, a 90-foot-long lock section, two 1,000-foot-long spillway sections with flashboards, and 220 feet of non-overflow section at top elevation 198.54 feet USGS datum; a powerhouse with an installed capacity of 18,880 kW; two 46-kV ties to a 46/115-kV substation; and appurtenant facilities.

Pursuant to section 15(b)(2) of the Act the licensee is required to make available certain information described in Docket No. RM87-7-000, Order No. 496 (Final Rule issued April 28, 1988). A copy of this Docket can be obtained from the Commission's Public Reference Branch, Room 1000, 825 North Capitol Street, NE., Washington, DC 20426. The



above information as described in the rule is now available from the licensee at 1426 Main Street, Columbia, SC 29218.

Pursuant to section 15(c)(1) of the Act, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by December 31, 1991.

Lois D. Cashell,  
Secretary.

[FR Doc. 89-4551 Filed 2-27-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL89-17-000]

### San Diego Gas & Electric Co. v. Alamito Co.; Filing

February 22, 1989

Take notice that on February 15, 1989, San Diego Gas & Electric Company (SDG&E) tendered for filing a complaint and motion for summary disposition against Alamito Company (Alamito). In its complaint SDG&E alleges that Alamito has unlawfully converted the gain realized in a utility plant financing transaction to the benefit of Alamito's stockholders and "junk" bond holders, and improperly charged the gain and associated financing costs to its customer, SDG&E.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.14). All such motions or protests should be filed on or before March 24, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. Complainant states that it has served copies of the complaint on the respondents. Answers to the complaint shall be due on or before March 24, 1989.

Lois D. Cashell,  
Secretary.

[FR Doc. 89-4552 Filed 2-27-89; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2205-006—Vermont]

### Central Vermont Public Service Corp.; Establishing Procedures for Relicensing and a Deadline for Submission of Final Amendments

February 22, 1989.

The license for the Lamoille River Project No. 2205 located on Lamoille River in Chittenden, Franklin, and Lamoille Counties, Vermont expired on December 31, 1987. Pursuant to section 15(c)(1) of the Federal Power Act the statutory deadline for the submission of applications for relicensing was December 31, 1985. An application for relicensing has been filed as follows:

Project No.	Applicant	Contact
P-2205	Central Vermont Public Service Corp., 77 Grove St., Rutland, VT 05701.	Mr. Darrow R. McLeod, Central Vermont Public Service Corp., 77 Grove St., Rutland, VT 05701.

The following dates and procedures will be used in processing the application.

Date	Action
October 8, 1987	Commission notified applicant of any deficiencies in its application
January 11, 1988	Applicant filed all corrections of deficiencies
September 7, 1988	Commission issued public notice of application and establishing dates for filing interventions, public comments, agency recommendations, and fish and wildlife terms and conditions
March 30, 1989	Final amendment to application due

The application was not filed by the 24-month deadline established by section 15 of the Act. Under section 15(c)(2), the Commission is exercising its authority to adjust the filing deadline in this case.

Lois D. Cashell,  
Secretary.

[FR Doc. 89-4539 Filed 2-27-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ89-2-22-001]

### CNG Transmission Corp.; Proposed Changes in FERC Gas Tariff

February 21, 1989.

Take notice that CNG Transmission Corporation ("CNG"), on February 14, 1989, pursuant to the terms of the January 27, 1989, letter order in this proceeding filed the following revised tariff sheet to Original Volume No. 1 of its FERC Gas Tariff:

### Second Substitute Fifth Revised Sheet No. 31

CNG states this filing corrects an error in the "Estimated average cost of gas in the PGA" as set forth on Substitute Fifth Revised Sheet No. 31 but does not change any rate to be charged CNG's customers.

Copies of the filing were served upon CNG's sales customers as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a protest or motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.214 and 385.211. All motions or protests should be filed on or before February 28, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,  
Secretary.

[FR Doc. 89-4544 Filed 2-27-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL89-16-000]

### Delmarva Power & Light Co.; Notice of Filing

February 22, 1989

Take notice that Delmarva Power & Light Company (Delmarva), on February 14, 1989, tendered for filing a request for a limited-term waiver of the fuel clause regulations applicable to, and a limited-term modification of, its Fuel Adjustment Clause, FERC Electric Service Tariff, Volume No. 11, Section XVIII, Original Leaf No. 31 and First Revised Leaf No. 32. The proposed waiver would provide for the recovery,



from its wholesale for resale electric customers, of the allocated costs, plus interest, less tax benefits, of certain coal contract buyouts. Delmarva states that it has incurred these coal contract buyout costs for the sole benefit of its customers, that its customers have benefitted and will continue to benefit from the contract buyouts, and that timely recognition of the Company's efforts to take advantage of lower cost fuel supplies, through this waiver, would be appropriate, just, reasonable, and in the public interest.

Delmarva has also requested a waiver of the sixty-day notice requirement to permit an effective date of January 1, 1989, for implementation of the requested fuel clause waiver. The proposed waiver would increase the otherwise applicable Fuel Clause Adjustment rate by approximately \$0.000176 (0.176 mills) per kilowatt-hour for two years. Delmarva has, in the alternative, requested authorization to permit the continued recording of the buyout costs, plus interest, less tax benefit, so as to permit their recovery in its next wholesale base rate case.

Copies of this filing have been served upon Delmarva's jurisdictional Customers and upon the Public Service Commissions of Delaware and Maryland and the Virginia State Corporation Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 14, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,  
Secretary.

[FR Doc. 89-4533 Filed 2-27-89; 8:45 am]  
BILLING CODE 6717-01-M

[Project No. 2332; South Carolina and North Carolina]

#### Duke Power Co.; Intent To File an Application for a New License

February 22, 1989.

Take notice that on December 29, 1988, Duke Power Company, the existing licensee for the Gaston Shoals Hydroelectric Project No. 2332, filed a notice of intent to file an application for a new license, pursuant to section 15(b)(1) of the Federal Power Act (Act), 16 U.S.C. 808, as amended by section 4 of the Electric Consumers Protection Act of 1986, Pub. L. 99-495. The original license for Project No. 2332 was issued effective April 1, 1962, and expires December 31, 1993.

The project is located on the Broad River in Cherokee County, South Carolina, and Cleveland County, North Carolina. The principal works of the Gaston Shoals Project include a dam with a 707-foot-long rubble masonry section, a 363.14-foot-long concrete section, and a 472.2-foot-long concrete powerhouse bulkhead section; a reservoir with normal pool elevation at 605.2 feet USGS datum; a powerhouse with an installed capacity of 9,140 kW; a transmission line connection; and appurtenant facilities.

Pursuant to section 15(b)(2) of the Act, the licensee is required to make available certain information described in Docket No. RM87-7-000, Order No. 496 (Final Rule issued April 28, 1988). A copy of this Docket can be obtained from the Commission's Public Reference Branch, Room 1000, 825 North Capitol Street, NE., Washington, DC 20426. The above information as described in the rule is now available from the licensee at 422 South Church Street, Charlotte, NC 28242.

Pursuant to section 15(c)(1) of the Act, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by December 31, 1991.

Lois D. Cashell,

Secretary.

[FR Doc. 89-4546 Filed 2-27-89; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. ER89-31-000]

#### Niagara Mohawk Power Corp.; Regulatory Fairness Act

Issued February 21, 1989.

On December 19, 1988, the Commission instituted a proceeding in this docket pursuant to section 206 of the Federal Power Act, 16 U.S.C. 824e.<sup>1</sup>

<sup>1</sup> Niagara Mohawk Power Corporation, 45 FERC ¶ 61,435 (1988). In the December 19, 1988 order, the Commission also: (1) consolidated this proceeding with the pending consolidated proceeding in Docket

That section requires that, if no final decision is rendered by the refund effective date or by the conclusion of the 180-day period commencing upon initiation of a proceeding pursuant to section 206, whichever is earlier, the Commission must by that date state the reasons why it has failed to do so and its best estimate as to when it reasonably expects to make such decision. Accordingly, we are issuing the required notice today.

The Commission will be unable to render a final decision by the refund effective date because the case is still in litigation before the presiding administrative law judge. As noted above, we consolidated this docket with Docket Nos. ER88-304 and ER88-305 because common questions of law and fact may be presented.<sup>2</sup> However, unlike the rate issues common to all the dockets, Docket Nos. ER88-304 and ER88-305 also present more complicated contract and transmission issues.<sup>3</sup>

Based upon the Judge's February 6, 1989 report, the Commission believes that it will require 12 months after briefs opposing exceptions to the initial decision are filed to review the record, the initial decision and the briefs, and issue an opinion. Our estimate is influenced by the more complicated issues presented in Docket Nos. ER88-304 and ER88-305 and the judge's need, in light of our consolidation, to address not only the rate issues pending in all the dockets but also the more complicated issues presented in the earlier dockets. Therefore, unless the proceeding settles, the Commission's best estimate of when it will reach a final decision is March 1991.

By the direction of the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 89-4538 Filed 2-27-89; 8:45 am]  
BILLING CODE 6717-01-M

Nos. ER88-304 and ER88-305 (see *id.* at 62,388 (Ordering Paragraph (D)); and (2) selected a refund effective date for this proceeding (see *id.* at 62,388 (Ordering Paragraphs (F) and (G)). The refund effective date is February 21, 1989. 53 FR 51903-04 (1988).

<sup>2</sup> See also Presiding Judge's February 6, 1989 report to the Commission at 2 (The proposed decreased rates at issue in this proceeding are the same rates being collected subject to refund in Docket Nos. ER88-304 and ER88-305 for identical services).

<sup>3</sup> See Niagara Mohawk Power Corporation, 44 FERC ¶ 61,243, order allowing response to reh'g, 45 FERC ¶ 61,199 (1988), reh'g denied, 46 FERC ¶ 61,316 (1989), request for reh'g and clarification pending.



[Docket Nos. TA89-1-59-002 and TF89-5-59-002]

**Northern Natural Gas Co.; Notice of Filing**

February 21, 1989.

Take notice that on February 13, 1989, Northern Natural Gas Company (Northern) filed certain tariff sheets to its FERC Gas Tariff.

Northern states that the purpose of this filing is to correct a sequencing error in the pagination of its FERC Gas Tariff. Northern states that since this filing corrects a sequencing error, Northern proposes a January 1, 1989 effective date consistent with the authorization of the withdrawn tariff sheets.

Northern state that copies of this filing is being served on each of its gas utility customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR § 385.214, 385.211 (1989)). All such motions or protests should be filed on or before February 28, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,  
Secretary.

[FR Doc. 89-4545 Filed 2-27-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM89-3-28-000]

**Panhandle Eastern Pipe Line Co.; Proposed Changes in FERC Gas Tariff**

February 22, 1989.

Take notice that Panhandle Eastern Pipe Line Company (Panhandle) on February 15, 1989 tendered for filing the following sheets to its FERC Gas Tariff, Original Volume No. 2:

Substitute Fifteenth Revised Sheet No. 694

Substitute Second Substitute Thirteenth Revised Sheet No. 695

Substitute Seventh Revised Sheet Nos. 1557, 1610, 1920, 1995, 2489, 2524 and 2672

Substitute Second Substitute Fifth Revised Sheet No. 1558

Substitute Third Revised Sheet No. 1621

Substitute Fourth Revised Sheet Nos. 1911.A and 1931

Substitute Ninth Revised Sheet Nos. 2242 and 2731

Fifth Revised Sheet No. 2432

Substitute Fifth Revised Sheet No. 2707

Panhandle states that such changes are made to amend certain Rate Schedules for the transportation of natural gas on behalf of various Panhandle transport customers to reflect Trunkline Gas Company's current transportation rates as approved in Docket No. RP88-180-004 by Commission's Order issued December 8, 1988 to be effective December 1, 1988. Panhandle proposes that these tariff sheets become effective December 1, 1988.

A copy of this filing has been served on the various transport customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before March 2, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,  
Secretary.

[FR Doc. 89-4534 Filed 2-27-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP88-93-006 and RP88-40-006]

**Questar Pipeline Co.; Notice of Filing**

February 22, 1989.

Take notice that on February 16, 1989, Questar Pipeline Company (Questar) filed certain tariff sheets to its FERC Gas Tariff, to be effective as proposed. Questar states that its filing is in response to the Commission's "Order Granting in Part Appeal of Staff Action," issued February 1, 1989, in the referenced dockets (46 FERC ¶ 61,115 (1989)). Questar indicates that it previously attempted to comply with the Commission's April 28, 1988 suspension/rejection order herein by filing on June 16, 1988 tariff sheets that incorporated

Questar's projection of testperiod transportation volumes that could be expected to be transported at the maximum rates applicable to such service, in accordance with 18 CFR 284.7(c)(3).

Questar states that pursuant to the February 1, 1989 order the February 16, 1989 filing incorporates the volume determinants filed by Questar in its first compliance filing on June 16, 1988, and other unrelated modifications as were made in response to a July 18, 1988 letter order of the Director of the Office of Pipeline and Producer Regulation. Questar requests that the effective date for the volume throughput originally filed on June 16, 1988 be November 1, 1988.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1989)). All such motions or protests should be filed on or before March 2, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,  
Secretary.

[FR Doc. 89-4535 Filed 2-27-89; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 10496-002 Washington]

**Snoqualmie River Hydro; Surrender of Preliminary Permit**

February 22, 1989.

Take notice that Snoqualmie River Hydro, permittee for the proposed Big Creek Project, has requested that its preliminary permit be terminated. The permit was issued on April 27, 1988, and would have expired on March 31, 1991. The project would have been located on Big Creek in Snoqualmie-Mt. Baker National Forest, in King County, Washington. The permittee states that the proposed project is not economically feasible under existing environmental and engineering constraints.

The permittee filed the request on January 25, 1989, and the preliminary permit for Project No. 10496 shall remain in effect through the thirtieth day after issuance of this notice unless that day is



Saturday, Sunday, or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Lois D. Cashell,

Secretary.

[FR Doc. 89-4554 Filed 2-27-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP89-29-001 and RP88-228-008]

**Tennessee Gas Pipeline Co.  
Compliance Filing**

February 23, 1989

Take notice that on February 15, 1989, Tennessee Gas Pipeline Company (Tennessee) filed the following revised tariff sheets to Second Revised Volume No. 1 of its FERC Gas Tariff in compliance with the Commission's Order issued January 31, 1989 in Docket Nos. RP89-29 and RP88-228:

Substitute Alternate Original Sheet No. 50A

Substitute Alternate First Revised Sheet No. 51

Substitute Alternate First Revised Sheet No. 56

Substitute Second Alternate Original Sheet No. 58B

Substitute Alternate First Revised Sheet No. 115A

Tennessee states the revised tariff sheets clarify the circumstances under which Tennessee will approve takes of gas by firm sales and transportation customers in excess of customers' D2 nominations. Specifically, excess takes will be approved provided the overrun does not adversely affect service to Tennessee's other customers or Tennessee's pipeline operations. With respect to overruns by sales customers, Tennessee will approve excess takes only if it has sufficient gas supplies available to render the service.

The revised tariff sheets are proposed to be effective May 1, 1989.

Tennessee states that copies of the filing have been mailed to all parties in this proceeding, affected customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before March 2, 1989. Protests will be

considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-4536 Filed 2-27-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-81-010]

**Texas Eastern Transmission Corp.;  
Compliance Filing in FERC Gas Tariff**

February 23, 1989.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on February 15, 1989 tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, six copies of the following tariff sheets:

Substitute Second Revised Sheet No. 306

Second Revised Sheet No. 313

Substitute Third Revised Sheet No. 331

Texas Eastern states that this filing makes the revisions to Texas Eastern's December 12, 1988 tariff filing in compliance with the Commission's January 31, 1989 Order issued in Docket No. RP88-81-009. Specifically, Texas Eastern has made the following tariff changes:

(1) Section 3.3 of Rate Schedule FT-1 on Substitute Second Revised Sheet No. 306 has been revised to require that the aggregate Maximum Daily Receipt Obligations (MDRO's), exclusive of MDRO's subject to reduction pursuant to Section 10 of Rate Schedule FT-1, for all Receipt Point(s) may not exceed the Maximum Daily Transportation Quantity (MDTQ), plus Applicable Shrinkage. A corresponding change in Section 10 is reflected on Second Revised Sheet No. 313. These tariff sheets have been revised to provide shippers with receipt flexibility as a result of Texas Eastern's desire to retain the provision in Section 3.3 of Rate Schedule FT-1 which limits the sum of all firm MDRO's to a shipper's MDTQ, plus Applicable Shrinkage.

(2) Section 3.3 of Rate Schedule IT-1 on Substitute Third Revised Sheet No. 331 has been added to provide for a consistent policy for both Rate Schedules FT-1 and IT-1 regarding requests for amendments to existing transportation agreements to add new receipt points. As required by the Commission's January 31, 1989 order, Texas Eastern's policy for Rate

Schedule IT-1 is consistent with its policy under Rate Schedule FT-1.

(3) Section 3.3 of Rate Schedule IT-1 and Section 3.3 of Rate Schedule FT-1 have both been revised to further clarify that the priority for new points of receipt will be determined by the original date of Buyer's compliance with the request requirements for interruptible transportation as specified in Section 3.1 of Rate Schedule IT-1, of firm transportation as specified in Section 3.2 of Rate Schedule FT-1.

Texas Eastern submits that its flexible receipt point policy, as proposed in the above tariff sheets promotes the Commission's goal of a more competitive gas supply market by balancing the interests of current and future firm shippers. Under Rate Schedule FT-1, firm shippers buy a point-to-point transportation service.

Texas Eastern believes that its policy now provides firm shippers with adequate flexibility with respect to gas supplies because it allows firm shippers to elect additional receipt points, subject to Section 10 of Rate Schedule FT-1, and because it permits shippers to switch firm receipt points. In summary, Texas Eastern feels that its policy now strikes a balance between the goal of nondiscriminatory access for all those desiring firm transportation service and the need for flexibility for firm shippers in purchasing gas for shipment through Texas Eastern's mainline system.

Texas Eastern states that in the event the Commission determines the flexible receipt policy as reflected in Texas Eastern's primary tariff sheets is not appropriate as part of this compliance filing, Texas Eastern submits for filing as a part of Fifth Revised Volume No. 1, six copies of the following alternate tariff sheets:

Alternate Substitute Second Revised Sheet No. 306

Alternate Substitute Third Revised Sheet No. 331

Texas Eastern states these alternative tariff sheets delete the requirement that the sum of Rate Schedule FT-1 customers MDRO's must equal their MDTQ's. The alternate tariff sheets are submitted by Texas Eastern without prejudice to Texas Eastern to litigate this issue as part of any evidentiary hearing in RP88-81 and to reinstate the MDRO restriction if the Commission determines, after a hearing, that such MDRO restriction is appropriate for inclusion in Texas Eastern's tariff.

The tariff sheets are proposed to be effective as of February 1, 1989.

Copies of the filing were served on Texas Eastern's jurisdictional



customers, interested state commissions, all parties of record in Docket No. RP88-81 and all affected shippers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before March 2, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,  
Secretary.

[FR Doc. 89-4537 Filed 2-27-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI86-27-006, et al.]

**Transco Energy Marketing, et al.;  
Applications for Extension of Blanket  
Limited-Term Certificates with  
Pregranted Abandonment<sup>1</sup>**

February 22, 1989.

Take notice that each Applicant listed herein has filed an application pursuant to section 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder for amendment of its blanket limited-term certificate with pregranted abandonment previously issued by the Commission for a term expiring March 31, 1989, to extend such authorization for an unlimited term, all as more fully set forth in the applications which are on file with the Commission and open for public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before March 10, 1989, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a

petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Lois D. Cashell,  
Secretary.

Docket No. CI86-27-006, et al.

Docket No.	Date filed	Applicant
CI86-27-006.....	2-15-89	Transco Energy Marketing Company, P.O. Box 1396, Houston, Texas 77251.
CI87-786-002. <sup>2</sup>	2-14-89	Val Gas, L.P., P.O. Box 1569, San Antonio, Texas 78296.
CI88-481-001....	2-3-89	CNG Producing Company, Canal Place One, Suite 3100, New Orleans, Louisiana 70130.

<sup>2</sup> Applicant requests authorization to resell all natural gas subject to the Commission's NGA jurisdiction including natural gas sold under any existing or subsequently approved pipeline blanket certificate authorizing interruptible sales of surplus system supply.

[FR Doc. 89-4540 Filed 2-27-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-67-000]

**West Texas Gathering Co.; Tariff Filing**

February 21, 1989.

Take notice that on February 15, 1989, West Texas Gathering Company, ("West Texas") 550 Westlake Park Blvd., Suite 170, Houston, Texas 77079, submitted for filing Original Sheet Nos. 1-37 of its FERC Gas Tariff, Original Volume No. 2. The Tariff filing sets forth rates, terms and conditions for gas transportation service.

West Texas states that its tariff filing is designed to open access to West Texas' services, within the contemplation of Part 284 of the Commission's Regulations, 18 CFR Part 284. West Texas' tariff filing sets out transportation rates which include minimum and maximum rates separately identifying cost components attributable to transportation and gathering costs, includes a cost basis for rates, and expresses rates on an MMBtu basis, all as required by the Commission's Regulations.

West Texas states the tariff sheets provide that they are filed to be made effective on February 15, 1989. West Texas has requested such waiver of the Commission's regulations as may be

required in order to permit the proposed effective date.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol St., N.E., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's regulations. All such motions or protests must be filed on or before March 1, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,  
Secretary.

[FR Doc. 89-4553 Filed 2-27-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP89-813-000, et al.]

**Gas Pipe Line Corporation, et al.;  
Natural Gas Certificate Filings**

Take notice that the following filings have been made with the Commission:

**1. Transcontinental Gas Pipe Line Corporation**

[Docket No. CP89-813-000]

February 17, 1989.

Take notice that on February 13, 1989, Transcontinental Gas Pipe Line Corporation (Transco), Post Office Box 1396, Houston, Texas 77251, filed in Docket No. CP89-813-000, a request for authorization to transport gas for Texaco Gas Marketing, Inc. (Shipper) under the prior notice procedure prescribed in §§ 157.205 and 284.223 of the Commission's Regulations and Transco's blanket certificate issued in CP88-328-000, all as more fully set forth in the request which is on file with the Commission and available for public inspection.

Transco states that pursuant to an Agreement dated November 1, 1988, the total volume of gas to be transported for Shipper on a peak day will be 1,147,000 dt; on an average day will be 80,000 dt; and on an annual basis will be 36,000,000 dt.

Transco states it will receive the gas at various existing points as described in Exhibit A to the transportation agreement and deliver the gas at various existing delivery points as described in

<sup>1</sup> This notice does not provide for consolidation for hearing of the several matters covered herein.



Exhibit A to the transportation agreement.

Transco states that it will construct no new facilities in order to provide this transportation service. Transco will utilize existing facilities as reflected in Exhibit A of the transportation agreement.

Transco states that there is no agency relationship under which a local distribution company or an affiliate of Shipper will receive gas on behalf of Shipper.

Transco states that service for Shipper commenced December 7, 1988, in Docket No. ST89-1628, pursuant to the 120-day automatic provisions of § 284.223(a) of the Commission's Regulations.

*Comment date:* April 3, 1989, in accordance with Standard Paragraph G at the end of this notice.

## 2. ANR Pipeline Company

[Docket No. CP89-821-000]  
February 22, 1989.

Take notice that on February 14, 1989, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP89-821-000, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas for Entrade Corporation (Entrade), a marketer, under its blanket certificate issued in Docket No. CP88-532-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

ANR states that pursuant to a transportation agreement dated November 14, 1988, it would transport natural gas on a firm basis for Entrade from an existing point of receipt in ANR's Southeast gathering area and redeliver the natural gas for the account of Entrade at existing interconnections located in the state of Indiana. ANR indicates that the volumes of natural gas to be transported for Entrade on a peak day, average day and annual basis would be 800 dth, 800 dth and 292,000 dth, respectively.

ANR states that it commenced service for Entrade, as reported in Docket No. ST89-2102-000, for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations (18 CFR 284.223(a)).

*Comment date:* April 10, 1989, in accordance with Standard Paragraph G at the end of this notice.

## 3. United Gas Pipe Line Company

[Docket No. CP89-837-000]  
February 22, 1989.

Take notice that on February 16, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP89-837-000, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Nerco Oil and Gas, Inc. (Nerco), a marketer and producer of natural gas, under the blanket certificate issued in Docket No. CP88-6-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United states that pursuant to a transportation agreement dated May 24, 1988, under its Rate Schedule ITS, it proposes to transport up to 77,250 MMBtu per day equivalent of natural gas for Nerco. United states that it would transport the gas from an existing receipt point at the Placid Oil Company Plant in Black Lake Field No. 1702, Natchitoches Parish, Louisiana, and deliver such gas to interconnections between United and (1) Southern Natural Gas Company near Perryville, Ouachita Parish, Louisiana, and (2) Natural Gas Pipeline Company of America near Goodrich, Polk County, Texas.

United advises that service under section 284.223(a) commenced December 17, 1988, as reported in Docket No. ST89-1964 (filed January 26, 1989). United further advises that it would transport 77,250 MMBtu on an average day and 28,196,250 MMBtu annually.

*Comment date:* April 10, 1989, in accordance with Standard Paragraph G at the end of this notice.

## 4. United Gas Pipe Line Company

[Docket No. CP89-836-000]  
February 22, 1989.

Take notice that on February 16, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP89-836-000, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for MidCon Marketing Corporation (MidCon), a marketer, under the blanket certificate issued in Docket No. CP88-6-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

United states that pursuant to a transportation agreement dated December 5, 1988, under its Rate Schedule ITS, it proposes to transport up to 206,000 MMBtu per day equivalent of natural gas for MidCon. United states that it would receive the gas at existing receipt points located offshore and in multiple states. United states that such gas would be transported and delivered to an interconnection between United and Natural Gas Pipeline Company of America near Goodrich, Polk County, Texas, and related PVR volumes would be allocated and delivered in Marathon's Burns Processing Plant in St. Mary Parish, Louisiana.

United advises that service under § 284.223(a) commenced December 17, 1988, as reported in Docket No. ST89-1966 (filed January 26, 1989). United further advises that it would transport 206,000 MMBtu on an average day and 75,190,000 MMBtu annually.

*Comment date:* April 10, 1989, in accordance with Standard Paragraph G at the end of this notice.

## 5. Panhandle Eastern Pipeline Company

[Docket No. CP89-834-000]  
February 21, 1989.

Take notice that on February 16, 1989, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1842, Houston, Texas 77231-1842, filed in Docket No. CP89-834-000 an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act for (1) blanket certificate with pregranted abandonment authority authorizing the interruptible sale for resale of natural gas supplies, which are in excess of the current and projected needs of Panhandle's on-system customers, to off-system and on-system purchasers, including interstate and Hinshaw pipelines, marketers and local distribution companies, pursuant to a proposed new rate schedule, Interruptible Sales Service (ISS); and (2) blanket authorization to use Panhandle's transmission facilities incidental to the interruptible sales service of gas, all as more fully set forth in application which is on file with the Commission and open to public inspection.

Panhandle states that it proposes to charge a negotiated rate for sales under the proposed Rate Schedule ISS ranging between a maximum rate equal to Panhandle's 100 percent load factor rate found in its General Service Rate Schedule for the zone in which redelivery occurs and a minimum rate equal to Panhandle's actual weighted average cost of gas (WACOG), adjusted for a representative amount for out-of-period adjustment plus variable delivery costs incurred, GRI, Annual Charge



Adjustments (ACA), plus fuel delivery costs and lost and unaccounted for gas volumes. Panhandle implies that the proposed interruptible sales service would be made with existing facilities.

*Comment date:* March 8, 1989, in accordance with Standard Paragraph F at the end of this notice.

#### 6. Williams Natural Gas Company

[Docket No. CP89-825-000]

February 21, 1989.

Take notice that on February 14, 1989, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP89-825-000 an application pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Williams Gas Marketing Company (WGM), a marketer of natural gas, under WNG's blanket certificate issued in Docket No. CP89-631-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

WNG proposes to transport, on a firm basis, up to a maximum of 2,500 MMBtu per day for WGM from various receipt points in Colorado, Oklahoma and Wyoming to various delivery points on WNG's pipeline system located in Kansas. WNG states that the maximum day, average day, and annual transportation volumes would be approximately 2,500 MMBtu, 2,500 MMBtu and 923,500 MMBtu respectively.

WNG further states that the transportation of natural gas for WGM commenced on January 1, 1989, as reported in Docket No. ST89-2054-000, for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations.

WNG advises that construction of facilities would not be required to provide the proposed service.

*Comment date:* April 7, 1989, in accordance with Standard Paragraph G at the end of this notice.

#### 7. Northern Natural Gas Company, Division of Enron Corp.

[Docket No. CP89-811-000]

February 21, 1989.

Take notice that on February 13, 1989, Northern Natural Gas Company, Division of Enron Corp., (Northern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188, filed in Docket No. CP89-811-000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to provide transportation service on behalf of PSI, Inc., (PSI), under Northern's blanket

certificate issued in Docket No. CP88-435-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern requests authorization to transport, on an interruptible basis, up to a maximum of 250,000 MMBtu of natural gas per day for PSI, a marketer of natural gas, from receipt points located in Oklahoma, Kansas, Texas, New Mexico, Iowa and South Dakota to delivery points located in Kansas, Texas, New Mexico, Oklahoma and Iowa. Northern anticipates transporting on an average day 187,500 MMBtu and an annual volume of 91,250,000 MMBtu.

Northern states that the transportation of natural gas for PSI commenced January 5, 1988, as reported in Docket No. ST89-2048-000, for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations and the blanket certificate issued to Northern in Docket No. CP88-435-000.

*Comment date:* April 7, 1989, in accordance with Standard Paragraph G at the end of this notice.

#### 8. Williams Natural Gas Company

[Docket No. CP89-824-000]

February 21, 1989.

Take notice that on February 14, 1989, Williams Natural Gas Company (Williams), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP89-824-000, a request pursuant to §§ 157.205 (18 CFR 157.205) of the Commission's Regulation under the Natural Gas Act for authorization to provide firm transportation service for Farmland Industries, Inc. (Farmland), an end-user under Williams' blanket transportation certificate issued May 10, 1988, in Docket No. CP88-631-000, all as more fully set forth in the application which is on file with Commission and open to public inspection.

Williams states it will receive the gas at various supply sources in Oklahoma and transport the gas to various delivery points on William's system in Missouri and Kansas.

Williams proposes to transport up to 6,025 MMBtu of gas per day on a peak day or approximately 2,199,125 MMBtu of gas annually. Williams states that the transportation service commenced under the 120-day automatic authorization of § 284.223(a)(i) of the Commission's Regulations on January 1, 1989, pursuant to a transportation agreement dated January 1, 1989. Williams notified the Commission of the commencement of the transportation service in Docket No. ST89-2095-000 on February 1, 1989.

*Comment date:* April 7, 1989, in accordance with Standard Paragraph G at the end of this notice.

#### 9. ANR Pipeline Company

[Docket No. CP89-823-000]

February 21, 1989.

Take notice that on February 14, 1989, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP89-823-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to provide an interruptible transportation service for Hadson Gas Systems, Inc. (Hadson), a marketer, under the certificate issued in Docket No. CP88-532-000 on July 25, 1988, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission.

ANR states that the transportation service will be provided pursuant to a transportation agreement dated October 28, 1988, wherein ANR proposes to transport natural gas on an interruptible basis for Hadson. ANR states that it would receive the gas at an existing point of receipt in ANR's Southeast gathering area and redeliver the gas for the account of Hadson at existing interconnections located in the State of Texas. ANR proposes to transport up to 40,000 dt equivalent of natural gas per peak day, 40,000 dt equivalent of natural gas on an average day, and 14,600,000 dt equivalent of natural gas on an annual basis.

ANR states that it commenced service for Hadson, pursuant to the automatic 120-day authorization under § 284.223(a), as reported in Docket No. ST89-2100.

*Comment date:* April 7, 1989, in accordance with Standard Paragraph G at the end of this notice.

#### 10. Panhandle Eastern Pipe Line Company

[Docket No. CP89-783-000]

February 22, 1989.

Take notice that on February 8, 1989, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP89-783-000 an application pursuant to section 7(b) of the Natural Gas Act requesting an order permitting and approving the abandonment in place of fifteen compressor units (15 Units) and related facilities from nine compressor station sites, totalling approximately 9,400 horsepower, all as more fully set forth in the application which is on file



with the Commission and open for public inspection.

More specifically, Panhandle proposes to abandon its compressor stations named Clapp, Rolla, Whitehorse and Angell, and ten compressor units located at its Avar, Elkhart, Hansford, Miller and Ulysses compressor stations, all located on the west-end of Panhandle's pipeline system.

Panhandle submits that, as a result of its on-going evaluation of the overall operating efficiency of its pipeline system and the significant changes in Panhandle's system gas-flow pattern, these 15 Units are being retired because they represent excess system compressor horsepower necessary to meet the needs of Panhandle's sales and transportation customers. Panhandle also states that it does not foresee a future need for the horsepower proposed to be abandoned. Panhandle further states that abandonment of these older and/or less efficient 15 Units will reduce its operating expenditures for labor and equipment maintenance by an estimated \$28,400 per year. Further, Panhandle states that these 15 Units subsequently would be relocated, sold, or dismantled and used to repair other compressors, as appropriate.

*Comment date:* March 15, 1989, in accordance with Standard Paragraph F at the end of this notice.

#### 11. ANR Pipeline Company

[Docket No. CP89-831-000]

February 22, 1989.

Take notice that on February 15, 1989, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP89-831-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on an interruptible basis on behalf of Central Soya Company, Inc. (Central Soya), a marketer of natural gas, under its blanket certificate issued in Docket No. CP88-532-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

ANR states that it would receive the gas at existing points of receipt in ANR's southeast and southwest gathering areas and would redeliver the gas for the account of Central Soya at an existing interconnection located in Will County, Illinois.

ANR further states that the maximum daily, average and annual quantities that it would transport for Central Soya would be 3,000 dt equivalent of natural gas, 3,000 dt equivalent of natural gas

and 1,095,000 dt equivalent of natural gas, respectively.

ANR indicates that in Docket No. ST89-2103, filed with the Commission on February 1, 1989, it reported that transportation service on behalf of Central Soya had begun under the 120-day automatic authorization provisions of § 284.223(a).

*Comment date:* April 10, 1989, in accordance with Standard Paragraph G at the end of this notice.

#### 12. Columbia Gulf Transmission

[Docket No. CP89-826-000]

February 22, 1989.

Take notice that on February 14, 1989, Columbia Gulf Transmission Company, (Columbia) 3805 West Alabama, Houston, Texas, 77027 filed in Docket No. CP89-826-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Loutex Energy, Inc. (Loutex), under its blanket authorization issued in Docket No. CP86-239-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Columbia would perform the proposed interruptible transportation service for Loutex, a marketer of natural gas, pursuant to an ITS-2 gas transportation service agreement dated December 22, 1988, as amended (agreement No. 04184-12-02). The term of the transportation agreement is from the execution date of the contract and shall continue in full force and effect from month to month thereafter unless cancelled by either party upon 30 days prior written notice to the other party. Columbia proposes to transport on a peak day up to 2,000 MMBtu; on an average day up to 1,500 MMBtu; and on an annual basis 547,500 MMBtu for Loutex. Columbia proposes to receive the subject gas from an points of receipt in Acadia and Plaquemines Parish, Louisiana. Columbia would then transport and redeliver such volumes for Loutex to Chevron's U.S.A.'s Gas Processing Plant in Plaquemines Parish, Louisiana. The proposed rate to be charged is \$0.0152 per Dth on transportation in the onshore laterals and \$0.1135 per Dth for transportation in the offshore laterals. Columbia indicates that it would be using existing facilities to provide the proposed transportation service.

It is explained that the proposed service is currently being performed pursuant to the 120-day self implementing provision of § 284.223(a)(1) of the Commission's

Regulations. Columbia commenced such self-implementing service on January 1, 1989, as reported in Docket No. ST89-2192-000.

*Comment date:* April 10, 1989, in accordance with Standard Paragraph G at the end of this notice.

#### 13. Panhandle Eastern Pipe Line Company

[Docket No. CP89-800-000]

February 22, 1989.

Take notice that on February 9, 1989, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP89-800-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain facilities located in Colorado (Wattenberg System), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Panhandle proposes to abandon by sale to Amoco Production Company (Amoco) certain Panhandle facilities in Adams, Arapahoe, Boulder, Larimer, Moffat, and Weld Counties, Colorado. It is stated that such facilities would include: (1) 11 compressor station sites with total compression of approximately 44,000 horsepower; (2) approximately 1,500 miles of pipeline; and (3) small field buildings and appurtenant facilities, operating and maintenance equipment, and spare parts in inventory. It is indicated that all facilities abandoned by Panhandle would remain in place for the continued use by Amoco and thus, no revegetation would be required.

Panhandle states that Amoco has agreed to purchase the Wattenberg System for \$48 million which is the approximate net book value of the system. It is stated that Amoco intends to use the Wattenberg System as part of its non-jurisdictional production and gathering activities. It is indicated that most of Amoco's and other producers' gas that was originally dedicated to Panhandle has been released from contract by the parties. However, Panhandle states that to the extent that it purchases gas from Amoco and other producers connected to the Wattenberg System, Amoco would provide service to Panhandle pursuant to an agreement dated December 19, 1988, between Amoco and Panhandle.

It is stated that for the first two years of service Amoco would charge Panhandle a rate of 13.23 cents for each MMBtu of Panhandle's gas received by Amoco. It is further stated that thereafter, Amoco would charge Panhandle a rate equal to the lowest



rate charged by Amoco for gas moving through the Wattenberg System, which in no event would exceed 25.00 cents per MMBtu, beginning in the third year (Rate Cap). The Rate Cap would escalate 2.5 percent per year beginning in the fourth year, it is stated.

Panhandle states that no customers presently served by Panhandle would have service terminated since the gas purchased from gas fields connected to the Wattenberg System would still be available, although most of this gas would not be dedicated to Panhandle.

*Comment date:* March 15, 1989, in accordance with Standard Paragraph F at the end of this notice.

#### 14. Williams Natural Gas Company

[Docket No. CP89-802-000]

February 22, 1989.

Take notice that on February 10, 1989, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP89-802-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a direct industrial sale, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

WNG proposes to abandon direct interruptible sales service to Walter C. Bishop, d/b/a Bishop Brick Company (Bishop Brick) in Allen County, Kansas. WNG states that service is provided to Bishop Brick pursuant to a gas sales contract dated May 24, 1983, for an initial term ending June 22, 1983, after which date the contract could be terminated by either party on 30 days written notice. WNG states that it has provided written notice to Bishop Brick by letter dated January 19, 1989, of its intention to terminate the contract effective as of February 28, 1989.

WNG asserts that Bishop Brick has made only one payment on its account since April 30, 1987, and currently owes WNG \$73,647.76. WNG further asserts that Bishop Brick is reselling gas to six residential and one commercial customer which are connected to its service line. WNG states that it has requested Bishop Brick to cease and desist in the resale of gas, but has received no response.

WNG further states that, on July 27, 1988, it filed a complaint against Bishop Brick in the United States District Court for the District of Kansas and that Bishop Brick has filed a counterclaim against WNG. The proceedings are currently pending, it is stated.

*Comment date:* March 15, 1989, in accordance with Standard Paragraph F at the end of this notice.

#### 15. Texas Gas Transmission Corporation

[Docket No. CP89-829-000]

February 22, 1989.

Take notice that on February 15, 1989, Texas Gas Transmission Corporation, (Texas Gas) 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP89-829-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas under its blanket authorization issued in Docket No. CP88-686-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Texas Gas proposes to transport natural gas on an interruptible basis for Kogas, Inc. (Kogas). Texas Gas explains that the service commenced January 1, 1989, under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST89-1823. Texas Gas proposes to transport on peak day up to 200,000 MMBtu; on an average day up to 50,000 MMBtu; and on an annual basis up to 73,000,000 MMBtu. Texas Gas proposes to receive the subject gas from various points of receipt in Louisiana, Kentucky, Texas, Offshore Louisiana, Tennessee, Illinois, Ohio, and Indiana. Texas Gas states that the points of delivery are with Cincinnati Gas and Electric Company, Columbia Gas Transmission Corporation, CNG Transmission Corporation, Ohio River Pipeline Corporation, Ohio Valley Gas Corporation, and Texas Eastern Transmission Corporation.

*Comment date:* April 10, 1989, in accordance with Standard Paragraph G at the end of this notice.

#### Standard Paragraphs:

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 89-4541 Filed 2-27-89; 8:45 am]

BILLING CODE 6717-01-M

#### [Project No. 2465 South Carolina]

#### Duke Power Co.; Intent To File an Application for a New License

February 22, 1989.

Take notice that on December 29, 1988, Duke Power Company, the existing licensee for the Holidays Bridge Hydroelectric Project No. 2465, filed a notice of intent to file an application for a new license, pursuant to section 15(b)(1) of the Federal Power Act (Act), 16 U.S.C. 808, as amended by section 4 of the Electric Consumers Protection Act of 1986, Pub. L. 99-495. The original license for Project No. 2465 was issued



effective May 9, 1967, and expires December 31, 1993.

The project is located on the Saluda River in Greenville and Anderson Counties, South Carolina. The principal works of the Holidays Bridge Project include a 50-foot-high, 844-foot-long concrete gravity dam; a reservoir of 466 acres at elevation 834.0 feet m.s.l.; a 950-foot-long power canal; a powerhouse with an installed capacity of 3,500 kW; six transformers and 3.5 miles of 22-kV transmission line to the Belton-Williamston line; and appurtenant facilities.

Pursuant to section 15(b)(2) of the Act, the licensee is required to make available certain information described in Docket No. RM87-7-000, Order No. 496 (Final Rule issued April 28, 1988). A copy of this Docket can be obtained from the Commission's Public Reference Branch, Room 1000, 825 North Capitol Street, NE., Washington, DC 20426. The above information as described in the rule is now available from the licensee at 422 South Church Street, Charlotte, NC 28242.

Pursuant to section 15(c)(1) of the Act, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by December 31, 1991.

Lois D. Cashell,  
Secretary.

[FR Doc. 89-4547 Filed 2-27-89; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. SA89-2-000]

#### Kansas Gas Supply Corp.; Petition for Adjustment

February 21, 1989.

On December 29, 1988, Kansas Gas Supply Corporation (KGS) filed a petition for an adjustment pursuant to section 502(c) of the Natural Gas Policy Act of 1978 (NGPA) with the Federal Energy Regulatory Commission. KGS seeks adjustment relief from §284.123(b)(1)(ii) of the Commission's regulations so it can use its existing intrastate transportation rate as the transportation component of its NGPA section 311 transportation rate. KGS' intrastate rate is part of its tariff filed with the Kansas Corporation Commission.

KGS states that it operates an intrastate pipeline in Kansas and that it

performs intrastate transportation services for industrial users, other pipelines, and local distribution companies served by interstate pipelines pursuant to section 311 (a) (2) of the NGPA. KGS states that the section 311 service it provides for interstate pipelines is nearly identical to the transportation services under KGS' comparable intrastate rate schedules. KGS states that if the adjustment requested herein is not granted, it would be required to make a cost-of-service presentation to the Commission while other similarly situated intrastate pipelines are able to qualify their state approved tariffs without such a proceeding. KGS states that it would be inequitable to impose such a burden since KGS is proposing to use a rate which the Kansas Corporation Commission has approved as reasonable based upon KGS' cost-of-service.

The procedures applicable to the conduct of this adjustment proceeding are found in Subpart K of the Commission's rules of practice and procedure (18 CFR 385.1101 *et seq.* (1988)). Any person desiring to participate in this proceeding must file a motion to intervene in accordance with the provisions of Subpart K within 15 days after publication of this notice in the **Federal Register**. KGS' petition is on file with the Commission and available for public inspection.

Lois D. Cashell,  
Secretary.

[FR Doc. 89-4548 Filed 2-27-89; 8:45 am]  
BILLING CODE 6717-01-M

[Project No. 2482 New York]

#### Niagara Mohawk Power Corp.; Intent To File an Application for a New License

February 22, 1989.

Take notice that on December 29, 1988, Niagara Mohawk Power Corporation, the existing licensee for the Hudson River Hydroelectric Project No. 2482, filed a notice of intent to file an application for a new license, pursuant to section 15(b)(1) of the Federal Power Act (Act), 16 U.S.C. 808, as amended by section 4 of the Electric Consumers Protection Act of 1986, Pub. L. 99-495. The original license for Project No. 2482 was issued effective April 1, 1949, and expires December 31, 1993.

The project is located on the Hudson River in Saratoga and Warren Counties, New York. The principal works of the Hudson River Project include the Sherman Island Unit with a concrete buttress dam, a canal 12 concrete penstocks, and a powerhouse with an installed capacity of 28,800 kW; the Spier Falls Unit with a masonry dam, a forebay canal, steel and concrete penstocks, and a powerhouse with an installed capacity of 44,000 kW; substations and transmission line connections; and appurtenant facilities.

Pursuant to section 15(b)(2) of the Act, the licensee is required to make available certain information described in Docket No. RM87-7-000, Order No. 496 (Final Rule issued April 28, 1988). A copy of this Docket can be obtained from the Commission's Public Reference Branch, Room 1000, 825 North Capitol Street NE., Washington, DC 20426. The above information as described in the rule is now available from the licensee at 300 Erie Boulevard West, Building A-1, Syracuse, NY 13202, Attn: Barbara J. Raymond, telephone (315) 428-6353.

Pursuant to section 15(c)(1) of the Act, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by December 31, 1991.

Lois D. Cashell,  
Secretary.

[FR Doc. 89-4549 Filed 2-27-89; 8:45 am]  
BILLING CODE 6717-01-M

#### ENVIRONMENTAL PROTECTION AGENCY

[FRL-3530-2]

#### Clean Air Act; Air Docket Relocation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of move and of closing of Air Docket during move.

**SUMMARY:** The Air Docket (formerly the Central Docket) will move from South Conference Room 4 of the WIC to Room M-1500 Waterside Mall (ground floor), 401 M Street, SW., Washington, DC 20460. The Air Docket will be closed from March 2, 1989 through March 7, 1989, to maintain the integrity of its records during the move.

The following actions will be undergoing public comment while the docket is closed:



FR/date	Docket No.	Title	Close date
54 FR 912, 1/10/89.....	A-88-28	Abestos NESHAP Revision.....	3-07-89
54 FR 1606, 1/13/89.....	A-79-02	NSPS Industrial-Commercial Institutional Steam Generating Units.....	3-10-89
54 FR 2138, 1/19/89.....	A-88-18	SIP Completeness Review.....	3-6-89

Written comments may be delivered to the Law Library, Room 2902 Waterside Mall, while the Air Docket is closed. Docket records will not be available for viewing during this time.

The Air Docket will reopen March 8, 1989, and will be open to the public 8:30 a.m.—noon and 1:30—3:30 p.m., Monday to Friday.

**FOR FURTHER INFORMATION CONTACT:** Jacqueline Brown, LE-131, 401 M Street, SW., Washington, DC 20460 (202/382/7548).

Gerald H. Yamada,

Acting General Counsel.

[FR Doc. 89-4597 Filed 2-27-89; 8:45 am]

BILLING CODE 6560-50-M

[PF-513; FRL-3530-6]

## Pesticide Tolerance Petitions

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This notice announces the filing of pesticide petitions proposing the establishment of tolerances and/or regulations for residues of certain pesticide chemicals in or on certain agricultural commodities.

**ADDRESS:** By mail, submit written comments to: Public Docket and Freedom of Information Section, Field Operations Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person bring comment to: Rm. 246, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI).

Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record.

Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 246 at the address given above, from 8 a.m. to 4 p.m.,

Monday through Friday, excluding legal holidays.

### FOR FURTHER INFORMATION CONTACT:

By mail: Registration Division (TS-767C), Attention: Product manager (PM) named in the petition, Environmental Protection Agency, Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460.

In person, contact the PM named in each petition at the following office location/telephone number:

Product Manager	Office location/ telephone number	Address
Dennis Edwards (PM 12)	Rm. 202, CM #2, 703-557-2386	Do.
Phil Hutton (PM 17)	Rm. 207, CM #2, 703-557-2690	Do.
Lois Rossi (PM 21)	Rm. 227, CM #2, 703-557-1900	Do.
Richard Mountfort (PM 23)	Rm. 237, CM #2, 703-557-1830	Do.

**SUPPLEMENTARY INFORMATION:** EPA has received pesticide (PP) and/or food and feed additive (FAP) petitions as follows proposing the establishment and or amendment of tolerances or regulations for residues of certain pesticide chemicals in or on certain agricultural commodities.

### Initial Filings

1. *PP 9F3707.* Mycogen Corp., c/o W.R. Landis Associates, Inc., P.O. Box 5126, Valdosta, GA 31605-5126, proposes amending 40 CFR Part 180 by establishing an exemption from the requirement of a tolerance for residues of encapsulated delta endotoxin of *Bacillus Thuringiensis* var. *kurstaki* resulting from application as an insecticide according to label directions. (PM 17)

2. *PP 9F3712.* Ciba-Geigy Corp., Agricultural Division, P.O. Box 18300, Greensboro, NC 27419, proposes to amend 40 CFR 180.408 by establishing a regulation to permit the residues of metalazyl and its metabolites containing the 2,6-dimethylaniline moiety and N-(2-hydroxymethyl-6-methylphenyl)-N-(methoxyacetyl)-alanine methyl ester in or on green hops at 2.0 ppm. The proposed analytical method for determining residues is high-performance liquid chromatography. (PM 21)

3. *PP 9F3713.* Mobay Corp., Agricultural Chemicals Division, P.O. Box 4913, Kansas City, MO 64120-0013, proposes to amend 40 CFR 180.154 by

establishing a regulation to permit the residues of O,O-dimethyl S-[(4-oxy-1,2,3-benzotriazin-3-(4H-yl)methyl]phosphorodithioate in or on almond hulls at 20 parts per million (ppm). The proposed analytical method for determining residues is gas chromatography. (PM 12).

4. *PP 9F3722.* Bantech Laboratories, Inc., 14424 S. E. Industrial Way, Clackamas, OR 97015-9696 proposes to amend the 40 CFR Part 180.1072 by establishing an exemption from the requirement of a tolerance for residues of the biochemical plant growth regulator, poly-D-glucosamine (Chitosan) when used as a seed treatment in or on soybeans. (PM-23)

5. *PP 9F3714.* Hoechst Celanese Corporation, Route 202-206 North, Somerville, NJ 08876 proposes to amend the 40 CFR Part 180 by establishing a tolerance to permit the residues of the herbicide fenoxaprop-ethyl, (+)-ethyl 2-[4-[6-chloro-2-benzoxazolyl]oxy]phenoxy]propanoate and its metabolites 2-[4-[6-chloro-2-benzoxazolyl]oxy]phenoxy]propanoic acid and 6-chloro-2,3-dihydro-benzoxazol-2-one in or on wheat grain at 0.05 ppm. The proposed analytical method for determining residues is high pressure liquid chromatography. (PM 23).

**Authority:** 7 U.S.C. 136a.

**Dated:** February 24, 1989.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 89-4723 Filed 2-27-89; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3530-1]

## Linecrest Way Site Notice of Proposed Settlement

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of proposed settlement.

**SUMMARY:** Under section 122(h) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the Environmental Protection Agency (EPA) has agreed to settle claims for response costs with Mr. Frank Redding, Jr., at the Linecrest Way Site, Decatur, Georgia.



EPA will consider public comments on the proposed settlement for thirty days. EPA may withdraw from or modify the proposed settlement should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper or inadequate. Copies of the proposed settlement are available from Ms. Carolyn McCall, Investigation Support Assistant, Investigation and Cost Recovery Unit, Site Investigation and Support Branch, Waste Management Division, U.S. EPA, Region IV, 345 Courtland Street NE., Atlanta, Georgia 30365, 404-347-5059.

Written comments may be submitted to the person above within thirty (30) days from the date of publication.

Date: February 14, 1989.

Don Guinyard,

Regional Administrator.

[FR Doc. 89-4600 Filed 2-27-89; 8:45 am]

BILLING CODE 6580-50-M

## FEDERAL COMMUNICATIONS COMMISSION

### Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city and state	File No.	MM Docket No.
A. Edwin A. Bernstein; Center Moriches, NY.	BPH-870330NC	88-584
B. Benjamin Macwan; Center Moriches, NY.	BPH-870331MK	
C. Radio Center Moriches A General Partnership; Center Moriches, NY.	BPH-870331MV	
D. Enrique Carlos Gross; Center Moriches, NY.	BPH-870331NB	
E. Nanette Markunas; Center Moriches, NY.	BPH-870331NC	
F. Dakk, Inc.; Center Moriches, NY.	BPH-870331ND	
G. CM Broadcasting Limited Partnership; Center Moriches, NY.	BPH-870331NT	
H. Charles R. Kendall, Steven Leads and Richard Summer d/b/a Shinnecock Broadcasting Partnership; Center Moriches, NY.	BPH-870331NU	
I. Vertical Broadcasting Corp.; Center Moriches, NY.	BPH-870331OQ	

Applicant, city and state	File No.	MM Docket No.
J. Moriches Bay Broadcasting, Inc.; Center Moriches, NY.	BPH-870331PI	
K. Knight Communications, Inc.; Center Moriches, NY.	BPH-870413KI	
L. Rockhit Communications, USA; Center Moriches, NY.	BPH-870414KI	
M. Gateway Broadcasting; Center Moriches, NY.	BPH-870415KR	
N. Friendship Communications, LTD.; Center Moriches, NY.	BPH-870415KS	
O. Hampton Communications Limited Partnership; Center Moriches, NY.	BPH-870415KY	
P. Long Island University Radio, Inc.; Center Moriches, NY.	BPH-870415MC	
Q. The Lefebvre Group; Center Moriches, NY.	BPH-870415MF	
R. Bay Media Group, Inc.; Center Moriches, NY.	BPH-870415ML	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used to signify whether the issue in question applies to the particular applicant.

#### Issue heading and Applicants

1. Air Hazard, E, G
1. Comparative, A-R
2. Ultimate, A-R

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW.,

Washington, DC 20037 (Telephone No. (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 89-4512 Filed 2-27-89; 8:45 am]

BILLING CODE 6712-01-M

## FEDERAL EMERGENCY MANAGEMENT AGENCY

### Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: New Collection.

Title: Federal Assistance for Offsite Radiological Emergency Planning and Preparedness Under Executive Order 12657.

Abstract: In accordance with Executive Order 12657 and under Interim Rule 44 CFR Part 352, FEMA will need certain information from nuclear power plant licensees to determine whether State or local governments have declined or failed to prepare commercial nuclear power plant radiological emergency preparedness plans that meet NRC licensing requirements or to participate in the preparation, demonstration, testing, exercise or use of such plans. Also, when a licensee requests Federal facilities or resources, FEMA will need information from the NRC as to whether the licensee has made maximum use of its resources and the extent to which the licensee has complied with 10 CFR 50.47(c)(1).

Type of Respondents: State and local governments, Businesses or other for-profit, Federal agencies or employees.

Estimate of Total Annual Reporting and Recordkeeping Burden: 1.

Number of Respondents: 1.

Estimated Average Burden Hours Per Response: 1.

Frequency of Response: On Occasion.

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 646-2624, 500 C Street SW., Washington, DC 20472.

Direct comments regarding the burden estimate or any aspect of this information collection, including suggestions for reducing this burden, to



the FEMA Clearance Officer at the above address; and to Francine Picoult, (202) 395-7231, Office of Management and Budget, 3235 NEOB, Washington, DC 20503, within two weeks of this notice.

Date: February 9, 1989.

Wesley C. Moore,

Director, Office of Administrative Support.

[FR Doc. 89-4574 Filed 2-27-89; 8:45 am]

BILLING CODE 6710-01-M

## FEDERAL RESERVE SYSTEM

### The Sumitomo Bank, Ltd., Osaka, Japan; Application to Act as an Intermediary Principal in Interest Rate and Currency Swaps and Related Transactions

The Sumitomo Bank, Limited, Osaka, Japan ("Sumitomo"), has applied pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) (the "Act") and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)) for permission for its wholly owned United States subsidiary, Sumitomo Bank Capital Markets, Inc. ("SBCM"), to engage *de novo* in the following activities:

1. Intermediating in the international swap markets by acting as originator and principal in interest rate swap and currency swap transactions;
2. Acting as an originator and principal with respect to certain risk-management products such as caps, floors, and collars, as well as options on swaps, caps, floors, and collars ("swap derivative products");
3. Acting as a broker or agent with respect to the foregoing transactions and instruments; and
4. Acting as an adviser to institutional customers regarding financial strategies involving interest rate and currency swaps and swap derivative products.

SBCM is currently authorized to conduct a commercial finance and leasing business pursuant to §§ 225.25(b)(1) and 225.25(b)(5), respectively, of the Board's Regulation Y (12 CFR 225.25(b)(1) and 225.25(b)(5)).

Sumitomo has applied for authorization to engage through SBCM in the full range of activities generally carried on by intermediaries and brokers or agents in the international swap and interest rate risk management product markets. SBCM will engage in matched swap transactions, and, if a particular transaction cannot be matched for a period of time, SBCM will manage its interim interest rate risk as a principal through the use of appropriate hedges. SBCM will not enter into speculative—that is, unmatched or

unhedged—swap transactions. With respect to credit risk, Sumitomo has undertaken to provide credit screening services for SBCM through its Tokyo credit desk.

With the exception of providing advice in connection with interest rate and currency swaps, interest rate caps, and similar transactions, the Board has not previously determined that the proposed activities are permissible for a bank holding company affiliate under section 4(c)(8) of the Act. *Signet Banking Corporation*, 73 Federal Reserve Bulletin 59 (1987); *The Nippon Credit Bank, Ltd.*, 75 Federal Reserve Bulletin 000 (February 13, 1989). Section 4(c)(8) of the Act provides that a bank holding company may, with prior Board approval, engage directly or indirectly in any activities "which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto."

A particular activity may be found to meet the "closely related to banking" test if it is demonstrated that banks have generally provided the proposed activity; that banks generally provide services that are operationally or functionally so similar to the proposed activity so as to equip them particularly well to provide the proposed activity; or that banks generally provide services that are so integrally related to the proposed activity as to require their provision in a specialized form. *National Courier Ass'n. v. Board of Governors*, 516 F.2d 1229, 1237 (D.C. Cir. 1975). In addition, the Board may consider any other basis that may demonstrate that the activity has a reasonable or close relationship to banking or managing or controlling banks. Board Statement Regarding Regulation Y, 49 FR 806 (1984).

Sumitomo contends that the proposed activities are closely related to banking because banks themselves are among the largest swap intermediaries in the international swap market. In addition, Sumitomo asserts that because the economic analyses and risks associated with swap intermediation are the same as the economic risks and analyses associated with lending, the proposed activities are operationally and functionally similar to traditional bank lending. Finally, Sumitomo argues that because a substantial number of all loans to credit-worthy borrowers are immediately swapped into a form that is more suited to the borrower's needs, the proposed swap intermediation activities are integrally related to the lending function.

In determining whether an activity meets the second, or proper incident to banking, test of section 4(c)(8), the Board must consider whether the performance of the activity by an affiliate of a holding company "can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices."

Sumitomo contends that allowing SBCM to engage in the proposed activities will provide end-users of swaps and swap derivative products with increased access to these products. In addition, SBCM believes that *de novo* participation in swap intermediation and related activities will enhance competition, promote efficiency, and lower intermediation costs in the swap and derivative product markets.

With respect to possible adverse effects, Sumitomo contends that SBCM's *de novo* entry into the business of swap intermediation will raise no questions of undue concentration of resources or decreased or unfair competition. In addition, Sumitomo argues that SBCM's conduct of the proposed activities will raise no question of unsound banking practices since, according to Sumitomo, the risks involved in the proposed activities are substantially the same as the risks involved in traditional bank lending. The Board asks for comment on whether the conduct of this activity outside the bank regulatory framework raises any issues from a safety and soundness standpoint.

Sumitomo contends that SBCM's dual role as a principal or broker in swap transactions and as an adviser to potential counterparties will not pose any conflict of interest problems. SBCM will advise and transact business only with institutional customers who will clearly understand SBCM's dual role. Moreover, Sumitomo states that, in serving as an intermediary and adviser in the swap markets, SBCM's role will be the same as that of a bank in its traditional dual role as financial intermediary and financial adviser.

In order to eliminate conflicts of interest that may arise from the misuse of confidential information received by SBCM from institutional customers, Sumitomo has made the following commitments:

1. SBCM will not make available to Sumitomo or any of its subsidiaries confidential information received from SBCM's clients;



2. Disclosure will always be made to each potential client of SBCM that SBCM is an affiliate of Sumitomo;

3. Advice rendered by SBCM on an explicit fee basis will be rendered without regard to correspondent balances maintained by the customer of SBCM at Sumitomo or any depository institution subsidiary of Sumitomo; and

4. SBCM's financial advisory activities shall not encompass the performance of routine tasks or operations for a customer on a daily or continuous basis.

Any views or requests for a hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than March 27, 1989. Any request for a hearing must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of San Francisco.

Board of Governors of the Federal Reserve System, February 22, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-4496 Filed 2-27-89; 8:45 am]

BILLING CODE 6210-01-M

## FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

### Employee Thrift Advisory Council; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), a notice is hereby given of the following committee meeting:

**Name:** Employee Thrift Advisory Council.

**Time and date:** 10:00 a.m., March 14, 1989.

**Place:** Fifth Floor Conference Room, Federal Retirement Thrift Investment Board, 805 Fifteenth Street NW., Washington, D.C.

**Status:** Open.

**Matters to be considered:** Approval of the minutes of the November 2, 1988, meeting; report of the Executive Director on the status of the Thrift Savings Plan, legislative agenda; investment policy of the Common Stock Index Fund, materials for the May 15-July 31, 1989, Open Season; and new business.

Any interested person may attend, appear before, or file statements with the Council. For further information contact John J. O'Meara, Committee Management Officer, on (202) 523-6367.

Dated: February 22, 1989.

Francis X. Cavanaugh,

Executive Director.

[FR Doc. 89-4559 Filed 2-27-89; 8:45 am]

BILLING CODE 6710-01-M

## GENERAL SERVICES ADMINISTRATION

### Agency Information Collection Under OMB Review

The GSA hereby gives notice under the Paperwork Reduction Act of 1980 that it is requesting the Office of Management and Budget (OMB) to renew expiring information collection 3090-0198, General Services Administration Acquisition Regulation Part 525, Foreign Acquisition. Offerors are required to identify whether items are foreign source end products and the dollar amount of import duty for each product.

**AGENCY:** Office of Acquisition Policy (V), GSA.

**ADDRESSES:** Send comments to Bruce McConnell, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Mary L. Cunningham, GSA Clearance Officer, General Services Administration (CAIR), F Street at 18th, NW, Washington, DC 20405.

**Annual Reporting Burden:** Firms responding, 40; responses, 1 per year; average hours per response, .1665; burden hours, 6.7.

**FOR FURTHER INFORMATION CONTACT:** Ida Ustad, 202-566-1224.

Copy of Proposal: A copy of the proposal may be obtained from the Information Collection Management Branch (CAIR), Room 3014, GS Bldg., Washington, DC 20405, or by telephoning 202-535-7691.

Dated: February 22, 1989.

Emily C. Karam,

Director, Information Management Division (CAI).

[FR Doc. 89-4585 Filed 2-27-89; 8:45 am]

BILLING CODE 6820-61-M

### Agency Information Under OMB Review

The GSA hereby gives notice under the Paperwork Reduction Act of 1980 that it is requesting the Office of Management and Budget (OMB) to renew expiring information collection 3090-0035, Bidder's Mailing List

Application Code Sheet, GSA Form 3038. The Bidder's Mailing List Application Code Sheet is used by vendors who wish to be included in GSA's automated Bidder's Mailing List system.

**AGENCY:** Federal Supply Service (FSS), Office of Commodity Management (FC), and Operations Management Division (FCO), GSA.

**ADDRESSES:** Send comments to Bruce McConnell, GSA Desk Officer, Room 3235, NEOB, Washington, DC, 20503, and to Mary L. Cunningham, GSA Clearance Officer, General Services Administration (CAIR), F Street at 18th, NW, Washington, DC 20405.

**Annual reporting burden:** Firms responding, 5,000; responses, 1 per year; average hours per response, .5; burden hours, 2,500.

**FOR FURTHER INFORMATION CONTACT:** Rosa McCullough, 703-557-7950.

Copy of proposal: A copy of the proposal may be obtained from the Information Collection Management Branch (CAIR), Room 3014, GS Bldg., Washington, DC 20405, or by telephoning 202-535-7691.

Dated: February 22, 1989.

Emily C. Karam,

Director, Information Management Division (CAI).

[FR Doc. 89-4623 Filed 2-27-89; 8:45 am]

BILLING CODE 6820-24-M

### Agency Information Collections Under OMB Review

The GSA hereby gives notice under the Paperwork Reduction Act of 1980 that it is requesting the Office of Management and Budget (OMB) to renew expiring information collection 3090-0043, Appraisal of Fair Annual Parking Rate per Space for Standard Level User Charge, GSA Form 3357. This form is needed by contract and staff appraisers to estimate the assessed parking rates for agencies occupying space in Federal and private buildings.

**AGENCY:** Public Building Service (PQ), GSA.

**ADDRESSES:** Send comments to Bruce McConnell, GSA Desk Officer, Room 3235, NEOB, Washington, DC, 20503, and to Mary L. Cunningham, GSA Clearance Officer, General Services Administration (CAIR), F Street at 18th, NW, Washington, DC 20405.

**Annual Reporting Burden:** Individuals responding, 260; responses, 5 per year; average hours per response, 1.6; burden hours, 2,100.

**FOR FURTHER INFORMATION CONTACT:** Jerry Yuter, 202-535-8356.



Copy of proposal: A copy of the proposal may be obtained from the Information Collection Management Branch (CAIR), Room 3014, GS Bldg., Washington, DC 20405, or by telephoning 202-535-7691.

Dated: February 17, 1989.

Emily C. Karam,

Director, Information Management Division (CAI).

[FR Doc. 89-4624 Filed 2-27-89; 8:45 am]

BILLING CODE 6820-24-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. 88M-0446]

#### Life Technologies, Inc.; Premarket Approval of ViraPap® Human Papillomavirus DNA Detection Kit

AGENCY: Food and Drug Administration.

ACTION: Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing its approval of the application by Life Technologies, Inc., Gaithersburg, MD, for premarket approval, under the Medical Device Amendments of 1976, of the ViraPap® Human Papillomavirus (HPV) DNA Detection Kit. After reviewing the recommendation of the Microbiology Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of December 23, 1988, of the approval of the application.

**DATE:** Petitions for administrative review by March 30, 1989.

**ADDRESS:** Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Joseph L. Hackett, Center for Devices and Radiological Health (HFZ-440), Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, MD 20910, 301-427-7550.

**SUPPLEMENTARY INFORMATION:** On February 17, 1988, Life Technologies, Inc., Gaithersburg, MD 20877, submitted to CDRH an application for premarket approval of the ViraPap® Human Papillomavirus (HPV) DNA Detection Kit. The ViraPap® Human Papillomavirus (HPV) DNA Detection Kit is intended for the detection of human papillomavirus types 6, 11, 16, 18, 31, 33, and 35 in cervical specimens. The indicated use of this test is to aid in the

diagnosis of sexually transmitted HPV infections which are associated with the majority of genital condyloma, cervical intraepithelial neoplasia, and cervical carcinoma. Also detecting HPV may serve as an adjunct to the Pap smear in the identification of women at increased risk of developing cervical intraepithelial neoplasia. ViraPap® is to be used only in conjunction with specimens obtained using the ViraPap® Specimen Collection Kit.

On June 13, 1988, the Microbiology Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On December 23, 1988, CDRH approved the application by a letter to the applicant from the Acting Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Joseph L. Hackett (HFZ-440), address above.

#### Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before March 30, 1989, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554-555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: February 16, 1989.

Walter E. Gundaker,

Acting Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 89-4614 Filed 2-27-89; 8:45 am]

BILLING CODE 4160-01-M

## Office of Human Development Services

### Agency Information Collection Under OMB Review

AGENCY: Office of Human Development Services.

ACTION: Notice.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), the Office of Human Development Services (OHDS) has submitted to the Office of Management and Budget (OMB) a request for an extension of an information collection approval under the Administration for Native Americans' Application for Federal Assistance, Program Narrative Statement.

**ADDRESSES:** Copies of the information collection may be obtained from Larry Guerrero, OHDS Reports Clearance Officer, by calling (202) 245-6275.

Written comments and questions regarding the requested extension should be sent directly to Shannah Koss-McCallum, OMB Desk Officer for OHS, OMB Reports Management Branch, New Executive Office Building, Room 3208, 725 17th Street NW., Washington, DC 20503, (202) 395-7316.

#### Information on Extension Document

Title: Administration for Native Americans Program Narrative Statement, Application for Federal Assistance



OMB No: None (Old Approval No. 0980-0016)

**Description:** American Indian tribes and Native American groups must submit applications to the Administration for Native Americans under the Native American Programs Act to obtain grants for social and economic development projects.

**Annual Number of Respondents:** 420

**Annual Frequency:** 1

**Average Burden Per Response:** 29.7

**Total Burden Hours:** 12,474.

Dated: February 21, 1989.

Sydney Olson,

*Assistant Secretary for Human Development Services.*

[FR Doc. 89-4622 Filed 2-27-89; 8:45 am]

BILLING CODE 4130-01-M

### National Institutes of Health

#### Reestablishment; Dental Research Programs Advisory Committee

Pursuant to the Federal Advisory Committee Act of October 6, 1972 [Pub. L. 92-463, 86 Stat. 770-776], and section 402(b)(6) of the Public Health Service Act, [42 U.S.C. Code 282(b)(6)] as amended by Pub. L. 100-607, November 4, 1988, the Director, NIH, announces the reestablishment, effective February 3, 1989, of the Dental Research Programs Advisory Committee.

Unless renewed by appropriate action prior to its expiration, the Dental Research Programs Advisory Committee will terminate on February 3, 1991.

Dated: February 23, 1989.

James B. Wyngaarden,  
*Director, NIH.*

[FR Doc. 89-4644 Filed 2-27-89; 8:45 am]

BILLING CODE 4140-01-M

#### Division of Research Resources; Meetings of the Subcommittees of the Animal Resources Review Committee

Pursuant to Pub. L. 92-463, notice is hereby given of Subcommittee meetings of the Animal Resources Review Committee, Division of Research Resources, National Institutes of Health.

These meetings will be open to the public as listed below for a brief staff presentation on the current status of the Animal Resources Program and the selection of future meeting dates. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92-463, the meetings will be closed to the public as listed below for the review, discussion and evaluation of individual

grant applications submitted to the Animal Resources Program. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

**Name of Subcommittee:**

Subcommittee on Animal Resources.

**Date of Meeting:** March 9, 1989.

**Place of Meeting:** National Institutes of Health, Executive Plaza, North, 6130 Executive Blvd., Conference Room J, Rockville, MD 20892.

**Open:** 10 a.m.-12 noon.

**Closed:** 8 a.m.-10 a.m.

**Name of Subcommittee:**

Subcommittee on Primate Research Centers.

**Dates of Meeting:** March 30-31, 1989.

**Place of Meeting:** Holiday Inn, Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20014.

**Open:** March 30-3 p.m.-5 p.m.

**Closed:** March 30-8 a.m.-3 p.m. March 31-8 a.m.-Adjournment.

Mr. Michael Fluharty, Public Affairs Specialist, Division of Research Resources, Westwood Building, Room 857, 5333 Westbard Avenue, Bethesda, Maryland 20892, (301) 496-5545, will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Arthur D. Schaerdel, Executive Secretary of the Animal Resources Review Committee, Division of Research Resources, National Institutes of Health, Westwood Building, Room 10A/18, Bethesda, Maryland 20892, (301) 496-4390, will furnish substantive program information upon request.

(Catalog of Federal Domestic Assistance Program No. 13.306, Laboratory Animal Sciences, National Institutes of Health)

Dated: February 17, 1989.

Betty J. Beveridge,

*Committee Management Officer, NIH.*

[FR Doc. 89-4645 Filed 2-27-89; 8:45 am]

BILLING CODE 4140-01-M

#### National Eye Institute; Meeting of the Vision Research Review Committee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Vision Research Review Committee, National Eye Institute, March 30-31, 1989, Conference Room 8, Building 31C, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on March 30 from 8:30 to 9:30 a.m. for opening remarks and discussion of

program guidelines. Attendance by the public will be limited to space available.

In accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 9:30 a.m. on March 30 until recess and on March 31 from 8:30 a.m. until adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Lois DeNinno, Committee Management Officer, National Eye Institute, Building 31, Room 6A/48, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-9110, will provide summaries of the meeting, rosters of committee members, and substantive program information upon request.

(Catalog of Federal Domestic Assistance Program Nos. 13.867, Retinal and Choroidal Diseases Research; 13.868, Anterior Segment Diseases Research; and 13.871 Strabismus, Amblyopia and Visual Processing: National Institutes of Health.)

Dated: February 17, 1989.

Betty J. Beveridge,

*Committee Management Officer, NIH.*

[FR Doc. 89-4648 Filed 2-27-89; 8:45 am]

BILLING CODE 4140-01-M

#### Division of Research Resources; Meeting of the Minority Biomedical Research Support Subcommittee of the General Research Support Review Committee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Minority Biomedical Research Support Subcommittee (MBRSS) of the General Research Support Review Committee (GRSRC), Division of Research Resources (DRR), March 16-17, 1989, Building 31, Conference Room 9, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

This meeting will be open to the public on March 17, from 1:00 p.m. to adjournment to discuss policy matters relating to the Minority Biomedical Research Support Program (MBRSP). Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L.



92-463, the meeting will be closed to the public on March 16, from 8:30 a.m. to 5 p.m. and March 17, from 8:30 a.m. to 12:00 p.m. for the review, discussion, and evaluation of individual grant applications.

The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Michael Fluharty, Public Affairs Specialist, Division of Research Resources, National Institutes of Health, Westwood Building, Room 857, Bethesda, Maryland 20892, (301) 496-5545, will provide a summary of the meeting, and a roster of the committee members upon request. Dr. Lawrence J. Alfred, Executive Secretary, (301) 496-4390, will provide substantive program information upon request.

(Catalog of Federal Domestic Assistance Program No. 13.375, Minority Biomedical Research Support, National Institutes of Health).

Dated: February 17, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89-4646 Filed 2-27-89; 8:45 am]

BILLING CODE 4140-01-M

#### National Cancer Institute; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cancer Clinical Investigation Review Committee, National Cancer Institute, March 27-29, 1989, at the Guest Quarters Hotel, 7335 Wisconsin Avenue, Bethesda, Maryland 20814.

This meeting will be open to the public on March 27 from 7 p.m. to 7:30 p.m. for reports by the Executive Secretary and Chairman of the Cancer Clinical Investigation Review Committee. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92-463, the meeting will be closed to the public on March 28, from 8 a.m. to recess and on March 29 from 8 a.m. to adjournment for the review, discussion and evaluation of individual grant applications and cooperative agreements. These grant applications and cooperative agreements and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning

individuals associated with these applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/497-5708) will provide summaries of the meeting and rosters of committee members upon request.

Dr. David Irwin, Executive Secretary, Cancer Clinical Investigation Review Committee, National Cancer Institute, Westwood Building, Room 832, National Institutes of Health, Bethesda, Maryland 20892 (301/496-7978) will provide substantive program information upon request.

Dated: February 17, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89-4647 Filed 2-27-89; 8:45 am]

BILLING CODE 4140-01-M

#### National Institute of Environmental Health Sciences; Meeting of Environmental Health Sciences Review Committee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Environmental Health Sciences Review Committee on April 3-4, in Building 101 Conference Room, South Campus NIEHS, Research Triangle Park, North Carolina. This meeting will be open to the public on April 3 from 3 p.m. to approximately 4 p.m. for general discussion. Attendance by the public is limited to space available.

In accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 9 a.m. to 3 p.m. and 4 to 5 p.m. on April 3 and to adjournment on April 4, for the review, discussion and evaluation of individual grant applications and contract proposals. These applications and proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Drs. John Braun or Carol Shreffler, Executive Secretaries, Environmental Health Sciences Review Committee, National Institute of Environmental Health Sciences, National Institutes of Health, P.O. Box 12233, Research

Triangle Park, North Carolina 27709, (telephone 919-541-7826), will provide summaries of meeting and rosters of committee members.

(Catalog of Federal Domestic Assistance Program Nos. 13.112, Characterization of Environmental Health Hazards; 13.113, Biological Response to Environmental Health Hazards; 13.114, Applied Toxicological Research and Testing; 13.115, Biometry and Risk Estimation; 13.894, Resource and Manpower Development, National Institutes of Health)

Dated: February 17, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89-4649 Filed 2-27-89; 8:45 am]

BILLING CODE 4140-01-M

#### Public Health Service

##### National Toxicology Program; Call for Public Comments, Chemicals Proposed for Sixth Annual Report on Carcinogens

#### Background

The National Toxicology Program (NTP) requests comments on actions which the Program plans to take with regard to the *Sixth Annual Report on Carcinogens*. The report is a Congressionally-mandated listing of certain carcinogens and its preparation is delegated to the The National Toxicology Program by the Secretary, Department of Health and Human Services. The pertinent provision of Pub. L. 95-622 requires an Annual Report which contains "a list of all substances (i) which either are known to be carcinogens or any reasonably be anticipated to be carcinogens and (ii) to which a significant number of persons residing in the United States are exposed \* \* \*". The law also states that the reports should provide available information on the nature of exposures, the estimated number of persons exposed and the extent to which the implementation of Federal regulations decreases the risk of public health from exposure to these chemicals.

The proposed new entries for the Sixth Report have undergone a multiphased peer review process involving a variety of federal research and regulatory agencies. All evidence of carcinogenicity of the proposed new entries was peer reviewed by scientists of either the International Agency for Research on Cancer (IARC) or the Technical Reports Review Subcommittee of the NTP Board of Scientific Counselors before the chemicals were considered for selection.



All data relevant to the criteria for inclusion of candidate substances in the Annual Report have been evaluated by the two scientific review committees which develop the list of proposed additions to these reports. This notice is being published to provide for appropriate public comment to supplement these selection and review processes.

#### Proposed Actions

1. In the *Sixth Annual Report on Carcinogens*, the National Toxicology Program is proposing the addition of 13 substances to existing listing, two of which are to be listed as "known carcinogens." The eleven remaining chemicals are being proposed to be added as "reasonably anticipated to be carcinogens." These chemicals are listed in the appendix with their Chemical Abstract Services (CAS) Registry numbers and references. The Program seeks public comment on this action, including information and data

pertaining to these substances. Of particular interest are data on past and current exposures of persons residing in the United States to erionite and to ochratoxin A.

2. The NTP is proposing the deletion of 5-nitro-ortho-anisidine (CAS No. 99-59-2) and para-nitrosodiphenylamine (CAS No. 156-10-5) from the list of substances "reasonably anticipated to be carcinogens." As a result of the ongoing review process, the NTP now believes that there is insufficient evidence of carcinogenicity to merit the continued listing of these chemicals; comments and the submission of additional data or information are invited.

3. In previous volumes of the *Annual Report on Carcinogens*, the group of substances "aflatoxins" has been listed in the category of substances "reasonably anticipated to be carcinogens." Based upon data indicating sufficient evidence of

carcinogenicity in humans of this group of substances, it is proposed that aflatoxins be moved to the list of "known carcinogens" in the *Sixth Annual Report on Carcinogens*.

#### Submission of Comments on the Sixth Annual Report

Comments on the actions proposed for the *Sixth Annual Report on Carcinogens* will be accepted for a period of 45 days from date of publication of this announcement in the *Federal Register*. Comments should be sent to the National Toxicology Program Public Information Office, MD B2-04, P.O. Box 12233, Research Triangle Park, North Carolina 27709.

Dated: February 21, 1989.

David P. Rall,  
Director.

#### Appendix—Substances Proposed for the Sixth Annual Report on Carcinogens

##### A. Known to be Carcinogens

CAS nos.	Substance	NTP technical reports	IARC vol.
66733-21-9 13909-09-8	Erionite..... 1-(2-Chloroethyl)-3-(4-Methyl- cyclohexyl)-1-Nitrosourea (me-CCNU) .....		42 (1987) Supp 7 (1987)

##### B. Reasonably Anticipated to be Carcinogens

CAS nos.	Substance	NTP technical reports	IARC vol.
75-07-0 79-06-1 75-27-4 25013-16-5 15663-27-1	Acetaldehyde..... Acrylamide..... Bromodichloromethane .....	321	36 (1985) 39 (1986)
	Butylated Hydroxyanisole .....		40 (1986)
	Cisplatin.....		Supp 7 (1987)
62-50-0 66-27-3 70-25-7	Ethyl Methanesulphonate..... Methyl Methanesulphonate..... N-Methyl-N-Nitro-N-Nitrosoguanidine (MNNG).....		7 (1974) 7 (1974) 4 (1974)
64091-91-4 303-47-9 7631-86-9	4-(N-Nitrosomethylamino)-1-(3-Pyridyl)-1-Butanone (NNK)..... Ochratoxin A..... Silica, Crystalline .....	358	37 (1985) 31 (1983) 42 (1987)

[FR Doc. 89-4650 Filed 2-27-89; 8:45]

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#### Public Health Code; National Toxicology Program; Fiscal Year 1988 Annual Plan—Notice to Persons on the Mailing List

The NTP Annual Plan for Fiscal Year 1988 (NTP-88-200) and the Review of

Current DHHS, DOE and EPA Research Related to Toxicology (NTP-88-201) were published in January 1989 and sent as a set to persons and organizations on the mailing list to receive these documents. Due to a flaw in the packaging material, it appears that many of the mailings were not received.

We urge that those persons on the NTP mailing list who have not received

the Plan and Review please write or telephone the NTP Public Information Office, P.O. Box 12233, Research Triangle Park, NC 27709 (telephone: (919-541-3991 or FTS 629-3991).

Dated: February 23, 1989.

David P. Rall,  
Director, National Toxicology Program.  
[FR Doc. 89-4651 Filed 2-27-89; 8:45 am]  
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# DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. N-89-1917; FR-2606]

## Unutilized and Underutilized Federal Buildings and Real Property Determined by HUD To Be Suitable for Use for Facilities To Assist the Homeless

**AGENCY:** Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

**ACTION:** Notice.

**SUMMARY:** This Notice identifies Federal property determined by HUD to be suitable for possible use for facilities to assist the homeless.

**DATE:** February 28, 1989.

**ADDRESS:** For further information, contact Morris Bourne, Director, Transitional Housing Development Staff, Room 9140, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 755-9075; TTD number for the hearing- and speech-impaired (202) 426-0015. (These telephone numbers are not toll-free.)

**SUPPLEMENTARY INFORMATION:** In accordance with the December 12, 1988 court order in *National Coalition for the Homeless v. Veterans Administration*, D.C.D.C. No. 88-2503-OC, HUD is publishing this Notice to identify Federal buildings and real property that HUD has determined are suitable for use for facilities to assist the homeless. The properties were identified from information provided to HUD by Federal landholding agencies regarding unutilized and underutilized property controlled by such agencies and by the General Services Administration (GSA) from its current inventory of excess and surplus property.

The court order requires HUD to take certain steps to implement section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), which sets out a process by which Federal properties may be made available to the homeless. Under section 501(a), HUD is to collect information from Federal landholding agencies about unutilized and underutilized properties and then to determine, under criteria developed in consultation with the Department of Health and Human Services (HHS) and GSA, which of those properties are suitable for use for facilities to assist the homeless. The court order requires HUD to publish, on a weekly basis, a Notice

in the Federal Register identifying property determined suitable. HUD published the first Notice on January 9, 1989 (54 FR 667).

HUD's responsibility under section 501 is to determine the suitability of the properties for use as facilities to assist the homeless. It is important to note that, because HUD's determination of suitability is made without a specific proposal for use, approval for use is conditioned upon a number of factors, including the suitability of the property or any portion of the property for the type of activity planned, as well as the user's compliance with applicable federal, state, and local requirements that may govern the proposed use of the property. Property may also be found suitable even though the property may be currently occupied or in use. Under section 501, the issue of availability is the responsibility of GSA and HHS.

Unutilized and underutilized properties identified in this Notice may ultimately be available for use by the homeless, but they are first subject to review by the controlling agencies, pursuant to the court's Memorandum opinion of December 14, 1988 and section 501(b) of the McKinney Act. Section 501(b) requires HUD to notify each Federal agency with respect to any property of such agency that has been identified as suitable. Within 30 days from receipt of the notice from HUD, the agency must transmit to HUD its intention to: (1) Declare the property excess to the agency's need, or to make the property available on an interim basis for use for facilities to assist the homeless; or (2) state the reasons that the property cannot be declared excess or made available for such use on an interim basis.

First, if the controlling agency decides that the property cannot be declared excess or made available to the homeless for use on or an interim basis, the property will no longer be available.

Second, if the controlling agency declares the property excess to the agency's need, that property may be made available for use by the homeless in accordance with applicable law and the court's order of December 12, 1988 and Memorandum of December 14, 1988, subject to screening by other Federal agencies that may wish to make use of the property. In accordance with its normal procedures, GSA will notify the public when properties that HUD has determined suitable are declared excess to the controlling agency's needs. The properties identified by GSA will be held available for expressions of interest for 30 days following GSA's notification to the public. Thus, applicants will have 30 days after the

notification by GSA that the properties have been declared excess to submit an application or written expression of interest in a property to Judy Brietman, Division of Health Facilities Planning, Public Health Services, HHS, Room 17A-10 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland, MD 20857, (301) 443-2265. (This is not a toll-free number.)

Finally, in lieu of declaring any particular property as excess, the controlling agency may decide to make the property available to the homeless for us on an interim basis. Public bodies and private nonprofit organizations wishing more information about a particular property identified as suitable in this Notice or wishing to make application for use of a particular property on an interim basis should contact the appropriate landholding agency at the following addresses: U.S. Navy: Andrea Wohlfeld, Code 20YAW, Naval Facilities Engineering Command, 200 Stovall Street, Alexandria, VA 22332, (202) 325-7342; U.S. Army: (military facilities) HQ-DA, Attn: DAEN-ZCI-P-Robert Conte, Room 1E671, Pentagon, Washington, DC 20360-2600 (202) 693-4583; (civil works projects) Bob Swieconeck, HQ-US Army Corps of Engineers, Attn: CERE-MM, 20 Massachusetts Ave. NW., Washington, DC 20314-1000, (202) 272-1750; U.S. Air Force: Bill Kinball, HQ-USAF/LEER, Washington, DC 20332-0500, (202) 767-4384; Veterans Administration: Linda Tribby, 084A, Real Property Program Management, Veterans Administration, 810 Vermont Ave. NW., Washington, DC 20420, (202) 233-5026; GSA: James Folliard, Federal Property Resources Services, GSA, 18th and F Streets NW., Washington, DC 20405, (202) 535-7067; U.S. Department of Transportation: Angelo Picillo, Deputy Director, Administrative Services & Property Management, DOT, 400 Seventh St. SW., Room 10319D, Washington, DC 20590, (202) 366-4246; U.S. Dept. of Agriculture: James Wood, USDA, 14th and Independence Ave. SW., South Bldg., Room 1566, Washington, DC 20250, (202) 447-5225. (These are not toll-free telephone numbers.)

Detailed information about the properties identified in today's Notice from the current excess and surplus inventory of GSA may be obtained from James Folliard or Richard Stinson, Federal Property Resources Services, GSA, 18th and F Streets NW., Washington, DC 20405, (202) 535-7067. (This is not a toll-free telephone number.) Please refer to the GSA identification number given with each identified property. Public bodies and



private nonprofit organizations wishing to apply for use of a property from the GSA excess and surplus inventory should submit a written expression of interest and a request for the necessary application forms, within 30 days from the date of this publication, to the HHS address given above.

Although not required to do so by either section 501 or the court order, HUD is identifying property, from the information furnished by landholding agencies or CSA, determined unsuitable for use for facilities to assist the homeless, along with the reason for the finding. The court order prohibits the sale, transfer, or other disposition of property found unsuitable for a period of two weeks following the determination.

Dated: February 22, 1989.

James E. Schoenberger,  
General Deputy, Assistant Secretary for  
Housing-Federal Housing Commissioner.

#### Excess and Surplus Property

##### Suitable Land (Agency: GSA)

Number of Properties ( )

- 9-D-AK-53D, Portion of Elmendorf AFB (1), Anchorage, AK.
- 7GR (1) NM-504L and 7-B-NM-504G, Portion, Northern/West. Perimeter Tracts (2), Los Alamos, NM.
- 9-D-NV-417I, Hawthorne Army Ammunition Plant (1), Hawthorne, NV.
- 4-GR-PA-632A, U.S. Army Reserve Center (1), Chester County, PA, Location: Edgemont Military Reservation, Willistown Township.
- 4-GR-PA-632B, Portion, Edgemont Military Reservation (1), Willistown, PA.
- 7-GR-SD-488A, Newell Experiment Station (1), Butte County, SD.
- 4-D-VA-675A, Portion of Dismal Swamp Canal (1), Chesapeake, VA.

##### Suitable Buildings (Agency: GAS)

Number of Properties ( )

- 7-V-AR-538, Portion, VA Medical Center (1), Little Rock, AR, Location: Prior to occupancy, asbestos problem must be corrected.
- 2-D-MA-716P, Westover Communication Transmit Facility (1), Granby, MA, Location: Green Meadow Lane.
- 1-G-MA-786, Portion, GSA Depot (1), Watertown, MA.
- 9-D-ND-445A, Finley AFS and Water System (1), Finley, ND.
- 9-D-ND-445B, Finley Family Housing (1), Finley, ND.
- 1-U-NJ-608, Warehouse Building 77 (1), Kearny, NJ.
- 9-I-NV-460B, Stewart Indian School (1), Carson City, NV.
- 1-G-NY-637, Portion, 35 Ryerson Street (1), Brooklyn, NY.

- 1-G-NY-783, Portion, 252 7th Avenue (1), New York, NY.
- 1-G-NY-781, 203-209 Centre Street (1), New York, NY, Location: Howard Street Parking Garage.
- 2-6-OH-781, Zanesville Federal Building (1), Zanesville, OH, Location: 65 South Fifth Street. Comment: Reclassification 1/30/89, Property determined as suitable for occupancy.
- 7-G-OK-547, Federal Building (1), Chickasha, OK, Location: 4th and Choctaw Streets.
- 4-CR-(3)-PA-866, Phoenixville, PA (1), Location: Portion, Former Valley Forge General Hospital.
- PA-773, Job Corps Building (1), Pittsburgh, PA, Location: 3113 Forbes Avenue.
- PR-475G, Portion Former Ramey (1), Aguadilla, PR.
- 7-G-TX-965, Federal Building (1), Cuero, TX, Location: Corner of Church and Gonzales Streets.
- 7-G-TX-993, Brenham Federal Building (1), Brenham, TX, Location: 105 S. Market Street.
- 7-GR-TX-546, Fish Hatchery No. 2 (1), San Angelo, TX.
- 7-P-UT-499, Former Post Office (1), Vernal, UT.
- 7-I-UT-431W, Monticello Housing Site (1), Monticello, UT.
- 4-N-VA-615C, Naval Radio Transmitting Facility (1), Suffolk, VA.
- 9-G-WA-513M, Portion, Former Sage Building (1), Moses Lake, WA, Location: 25th and Dover Streets.

##### Unsuitable Land (Agency: GSA)

Number of Properties ( )

- 9-D-CA-508B, Camp Stoneman (2), Pittsburg, CA, Reason: Easement for RR & transport purposes. No structure permitted. Location: Railroad Easement.
- 9-U-CA-1167, Restrictive Use and Road Easements (1), Contra Costa County, CA, Reason: Easement. Location: Bay Point Relay Site & Access Road.
- 7-A-TX-451G, 425 Ring Gold Road (1), Brownsville, TX, Reason: Contamination. Location: Agricultural Research Worksite. Comment: Chemical contamination.
- D-WA-869, Redmond Nike Masking Easement (1), Redmond, WA, Reason: Air space only—Easement.

##### Unsuitable Buildings (Agency: GSA)

Number of Properties ( )

- 9-U-AK-714, 645 West 3rd Street (1), Anchorage, AK, Reason: Friable asbestos.
- G-PR-478, Punta Figuras Light Station (1), Arroyo, PR, Reason: Structure is very weak and dangerous, according to survey taken January, 1987.

#### Unutilized and Underutilized Property Suitable Land

Number of Properties ( )

Agency: Army

- Degray Lake (5), Clark County, AR.
- Degray Lake (5), Hot Springs County AR.
- Fall River Lake (1), Greenwood County, KS. Location: Parcel 14.
- El Dorado (1), Butler County, KS. Location: Parcel 6.
- Portion, Conant Brook Dam Flood Control (1), Wales Road, Monson, MA.
- Parcel B (1), 8 miles south of Greenville, Wayne County, MO.
- Parcel C (1), 3 miles south of Greenville, Wayne County, MO.
- Parcel D (1), Wayne County, MO.
- Parcel E (1), Near Silva, Missouri, Silva, MO.
- Parcel G (1), ½ mile south of Greenville, Wayne County, MO.
- Parcel I (1), ½ mile South of Shook, Wayne County, MO.
- Parcel H (1), Wayne County, MO. Location: ½ mile east southeast of the intersection of state Highways BB and D.
- Parcel A (1), Wayne County, MO. Location: Located ½ mile northwest of intersection of state Highways 172 and PP.
- Granada Lake (10), Vicksburg, MS.
- Granada Lake (10), Vicksburg, MS. Comment: Leased until 1993.
- Fort Gibson Lake (19), Mayes County, OK. Location: Parcels 28, 31, 34, 35, 37, 38, 39, 43, 44, 49, 50, 51, 52, 53, 61, 63, 65, 69, and 70.
- Fort Gibson Lake (9), Cherokee County, OK. Location: Parcels 2, 3, 5, 7, 11, 14, 15, 17, 18.
- Fort Gibson Lake (6), Wagoner County, OK. Location: Parcels 22, 23, 83, 95, 96, 97.
- Birch Lake (1), Osage County, OK. Location: Parcel 3.
- Tenkiller Ferry Lake (1), Cherokee County, OK. Location: Parcel 52.
- Shenango River Lake (1), Sharpsville, PA.
- Raystown Lake (1), Near fishing access point No. 2, Raystown Lake, PA.
- Barker Dam (1), Tract BR-48, Harris County, TX.
- Fort Lee Range Area (1), Fort Lee, VA. Location: NE Section.
- Agency: Department of Transportation
- Remote Transmitter (1), (3 miles from airport), Red Bluff, CA. Location: FAA property.
- USCG Lt. Station (2), Parcel A & B, Jupiter Inlet, FL, Location: U.S. Coast Guard Property.



Portion, Exeter Township (1), 5076 Schofield-Carleton Road, Carleton, MI. Location: FAA Property. Comment: No building permitted within 1,000 ft. of Vortac facility.

Agency: Air Force

Bayshore RBS (2), 379 CSG Deer, Bayshore, MI 49711. Location: Property 93359, 93361.

Agency: Department of Agriculture

Sand Point Seed Orchard (1), Ontario and Division Streets, Sandpoint, ID.

Agency: Veterans Administration

Portion VA Medical Center (1), Ft. Lyon, CO 81038.

VA Medical Center (1), Minneapolis, MN 55417. Comment: Licensed until 1993.

VA Medical Center (1), 54th & 48 Avenue, South Minneapolis, MN 55417.

VA Medical Center (1), Tomah, WI 54660.

#### *Suitable Buildings*

Number of Properties ( )

Agency: Army

Yuma Proving Ground (1), Buildings S-501 and S-503, Yuma, AZ 85365-9102.

Yuma Proving Ground (2), Buildings S-306 and S-308, Yuma, AZ 85365-9102. Comment: Asbestos to be abated 1/89.

Fort Des Moines (32), 225 East Army Post Road, Des Moines, IA 50315.

Location: Buildings P-61, P-58, P-62, P-81, P-55, P-56, P-59, P-60, P-117, P-126, P-127, P-75, P-139, P-133, P-84, P-72, P-83, P-86, P-122, P-123, P-135, P-137, P-68, P-70, P-71, P-73, P-63, P-64, P-309, P-308, P-69, P-46.

Ft. Devens (13), Ft. Devens, MA 01433-5100. Location: Buildings T-18, T-1606, T-1645, T-1666, T-1668, T-1675, T-1676, T-2281, T-2650, T-2674, T-3609, T-3752, T-2637.

U.S. Army Reserve Center (2), 620 Turill Street, Le Sueur, MN 56058. Location: Building 1 and 2.

Cochiti Lake Project (2), P.O. Box 1238, Pena Blanca, NM 17041.

Lower Monumental Lock & Dam Project (5), West Martin Street, Kohlotus, WA 99335.

Former Lockmaster's Dwelling (1), 4527 East Wisconsin Road, Appleton, WI 54915.

Former Lockmaster's Dwelling (1), 905 South Lowe Street, Appleton, WI 54915.

Former Lockmaster's Dwelling (1), 100 James Street, DePere, WI 54115.

Former Lockmaster's Dwelling (1), 301 Canal Street, Kaukauna, WI 54130.

Former Lockmaster's Dwelling (1), 214 Mill Street, Littlechute, WI 54140.

Former Lockmaster's Dwelling (1), Little Kaukauna Lock, Little Rapids, WI.

Former Lockmaster's Dwelling (1), 905 South Oneida, Appleton, WI 54911.

Former Lockmaster's Dwelling (1), Rapid Croche Lock/Lock Road, Wrightstown, WI 54180.

Agency: Department of Transportation

Duluth Vessel Yard (1), 900 Minnesota Avenue, Duluth, MN. Location: (Coast Guard Property).

Agency: GSA

Building 10 (1), 607 Hardesty Street, Kansas City, MO.

Federal Building (1), 29th & 3rd Avenue, Brooklyn, NY 11232.

Agency: Navy

Naval Reserve Center (1), 209 Pollard Street SW, Huntsville, AL 35801.

Agency: Veterans Administration

VA Medical Center (14), Fort Snelling, St. Paul, MN 55111. Location:

Buildings 227, 228, 229, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 253.

VA Medical Center (1), 54th Street & 48th Avenue South, Minneapolis, MN 55417. Location: Building 43.

Medical and Regional Office (19), 12th Street and 9th Avenue, NW., Minot, ND 58701. Location: Buildings 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 13, 14, 16, 17, 18, 19, 20, 21.

#### *Unsuitable Land*

Number of Properties ( )

Agency: Air Force

Wurtsmith AFB (1), 379 CSG, Wurtsmith, MI 48753-5000. Reason: Property is a county road.

Agency: Army

Newport Army Ammunition Plant (1), AA Street 14th Street, Newport, IN.

Within 2000 ft. from flammable or explosive material; Other environmental; Secured area; chemical storage.

Fall River Lake (5), Greenwood County, KS. Reason: Not accessible by road.

Location: Parcels 13, 15, 16, 17, 18.

Portion Hodges Village Dam Flood Control (1), Old Howarth Road, Oxford, MA. Reason: Easement.

Long Branch Lake (1), Macon, MO.

Reason: Isolated area; Floodway; Public use areas are leased to state of MO. until 2032. Location: Approximately 1 mile west of the city of Macon.

Stockton Lake (1), Stockton, MO.

Reason: Isolated area; Floodway. Location: Approximately 2 miles east of the town of Stockton.

Smithville, Lake (1), Smithville, MO.

Reason: Floodway; Use limitation—

land tied up in Justice Department litigation. Location: Approximately 1 mile northeast of Smithville.

St. Francis Flood Control Basin (1), Malden, MO. Reason: Floodway. Location: Two and one-half miles west of Malden.

Ft. Hamilton (1), E. Side of Ft. Hamilton Parkway, Brooklyn, NY. Reason: Easement. Location: Site is under east end of Verrazano-Narrows Bridge.

Fort Gibson Lake (11), Cherokee County, OK. Reason: Not accessible by road. Location: Parcels 4, 6, 8, 9, 10, 12, 13, 16, 19, 20, 21.

Broken Bow Lake (4), McCurtain County, OK. Reason: Not accessible by road. Location: Parcels 1, 2, 3, 4.

Birch Lake (2), Osage County, OK. Reason: Not accessible by road. Location: Parcels 1, 2.

Fort Gibson Lake (25), Mayes County, OK. Reason: Not accessible by road. Location: Parcels 29, 30, 32, 33, 36, 40, 41, 42, 45, 46, 47, 54, 55, 56, 57, 58, 59, 60, 62, 64, 66, 67, 73, 74, and 79.

Cheatham Lake (1), Cumberland River, Dickson/Davidson Co., TN. Reason: Not accessible by road.

Opekiska Lock and Dam (1), Monongahela River, Fairmount, WV 26554. Reason: Not accessible by road.

Agency-Dept of Transportation

Federal Aviation Administration (1), Cold Bay, AK. Reason: Isolated area; Within airport runway clear zone. Location: FAA Property.

Agency: Navy

Surface Warfare Center (1), White Oak Lab, Silver Spring, MD. Reason: Secured area.

Agency: Veterans Administration

VA Medical Center (1), Fort Snelling, St. Paul, MN 55111. Reason: Comment: Other environmental. Friable asbestos.

VA Medical Center (1), 4801 8th Street North, St. Cloud, MN. Reason: Floodway.

VA Medical Center (1), St. Louis, MO 63125. Reason: Not accessible by road.

VA Medical Center (1), Highland Drive, Pittsburgh, PA. Reason: Not accessible by road.

#### *Unsuitable Buildings*

Number of Properties ( )

Agency: Army

US Army Yuma Proving Ground (1), Property T-202, Yuma, AZ 85365-9102. Reason: Condemned as unsafe.

Yuma Proving Ground (1), Building 3553, Yuma, AZ 85365-9102. Reason: Within



2000 ft. from flammable or explosive material.

Yuma Proving Ground (3), Buildings, 6000, 6001, 6003, Yuma, AZ 85365-9102. Reason: Within 2000 ft. from flammable or explosive material; other environmental; friable asbestos.

US Army Reserve Center (1), 225 East Army Post Road, Des Moines, IA 50315. Reason: Deteriorated beyond economic repair. Location: Building P-307.

US Army Reserve Center (1), 225 East Army Post Road, Des Moines, IA 50315. Reason: Contamination. Location: Building P-138.

Pineville Flood Control (4), Pineville County, KY. Reason: Floodway.

RADC-Youngstown Test Site (1), Youngstown, NY. Reason: Contamination. Comment: Adjacent to toxic waste dump.

Fort Totten (10), Bayside, NY. Reason: Abandoned sewage settlement tank building. Location: Buildings 110, 211, 304, 322, 323, 326, 332, 503, 504.

McAlester Army Ammunition Plant (25), McAlester, OK. Reason: Contamination; within 2000 ft. from flammable or explosive material. Location: Buildings 100, 107, 110, 130, 133, 142, 161, 163, 164, 171, 172, 174, 178, 179, 182, 186, 201, 205, 209, 224, 225, 343, 445, 452, 454.

Mud Mountain Dam (2), 8 miles SE of Enumclaw, Enumclaw, WA 20525. Reason: Dangerous due to heavy construction of earthen dam.

Agency: Dept. of Transportation

San Luis Obispo Light Station (1), Avila Beach, San Luis Obispo Co., CA. Reason: Other environmental; secured area. Location: US Coast Guard.

Agency: Navy

Naval Reserve Center (1), 701 East 12th Street, Stillwater, OK 74074. Reason: Secured facility.

Agency: Air Force

Wurtsmith AFB (2), 379 CSG, Wurtsmith, MI 48753-5000. Reason: Within airport runway clear zone. Location: Buildings 1500, 201, 1100.

Whiteman Air Force Base (7), Knobnoster, MO. Reason: Other environmental; friable asbestos; Secured facility (no alternative access). Location: Buildings 1424, 537, 3004, 1438, 1436, 1404, 49.

Minot Air Force Base (3), Minot AFB, ND 58705-5000. Reason: Within 2000 ft. from flammable or explosive material. Location: Buildings 422, 727, 743.

Offutt Communications Annex No. 4 (5), Silvercreek, NE. Reason: Secured facility. Location: Buildings 32, 33, 34, 35, 444.

Vance Air Force Base (1), Vance AFB, OK 73705-5000. Reason: Within 2000 ft. from flammable or explosive material. Location: Building 705.

Fairchild Air Force Base (22), Fairchild AFB, WA 99011. Reason: Secured facility—no alternative access. Location: Buildings 640, 641, 642, 643, 645, 646, 647, 3521, 1415, 1429, 1464, 1465, 1466, 2037, 3503, 3504, 3505, 3506, 3507, 3510, 3514, 3518.

[FR Doc. 89-4579 Filed 2-27-89; 8:45 am]

BILLING CODE 4210-27-M

## DEPARTMENT OF THE INTERIOR

### Minerals Management Service

#### Outer Continental Shelf; Availability Proposed Notice of Sale Western Gulf of Mexico, Oil and Gas Lease Sale 122

Gulf of Mexico Outer Continental Shelf (OCS); Notice of Availability of Proposed Notice of Sale, Western Gulf of Mexico, Oil and Gas Lease Sale 122.

With regard to oil and gas leasing on the OCS, the Secretary of the Interior, pursuant to section 19 of the OCS Lands Act, as amended, provides the affected States the opportunity to review the proposed Notice of Sale.

The proposed Notice of Sale for Sale 122, Western Gulf of Mexico, may be obtained by written request to the Public Information Unit, Gulf of Mexico Region, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123-2394, or by telephone (504) 736-2519.

The final Notice of Sale will be published in the *Federal Register* at least 30 days prior to the date of bid opening. Bid opening is scheduled for August 1989.

This Notice of Availability is hereby published pursuant to 30 CFR 56.29, as amended (51 FR 37177) on October 20, 1986, as a matter of information to the public.

Dated: February 22, 1989.

Thomas Gernhofer,  
Director, Minerals Management Service.  
[FR Doc. 89-4586 Filed 2-27-89; 8:45 am]  
BILLING CODE 4310-MR-M

### National Park Service

#### National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before February 17, 1989. Pursuant to § 60.13 of 36 CFR Part 60 written comments

concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013-7127. Written comments should be submitted by March 15, 1989.

Amy Schlagel,  
Acting Chief of Registration, National Register.

## CALIFORNIA

### Alameda County

Bowles Hall, Stadium and Gayley Way, Berkeley, 89000195  
Kahn's Department Store, 1501-39 Broadway, Oakland, 89000194  
Liberty Hall, 1483-1485 8th St., Oakland, 89000199

### Kern County

Green Hotel, 530 James St., Shafter, 89000204

### Los Angeles County

Highland-Camrose Bungalow Village, Jct. Highland and Camrose Ave., Los Angeles 89000198

### San Francisco County

Westerfeld, William House, 1198 Fulton St., San Francisco, 89000197

## FLORIDA

### Lee County

Lee County Courthouse, 2120 Main St., Fort Myers, 89000196

## MISSISSIPPI

### Adams County

Selma Plantation House, 467 Selma Rd., Natchez, 89000207

## NEW HAMPSHIRE

### Belknap County

Gilmanton Iron Works Library, Elm St., Gilmanton, 89000188

### Merrimack County

Bog Bridge, Off Rt. 11 over Pleasant Brook, Andover, 89000192

East Andover Village Center Historic District, Jct. Rt. 11 and Chase Hill Rd., Andover, 89000191

Keniston Bridge, Bridge Rd. over Blackwater River, Andover, 89000190

North Wilton Union Meetinghouse, Jct. Breezy Hill and Piper Pond Rds., Wilton, 89000186

Potter Place Railroad Station, Depot St., Andover, 89000189

### Sullivan County

South Congregational Church, 58 S. Main St., Newport, 89000187

## OREGON

### Coos County

Tribal Hall of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians, 338 Wallace St., Coos Bay, 89000202



**Jackson County**

*Medford IOOF Cemetery*, Siskiyou Blvd. at Highland Dr., Medford, 89000205

**Multnomah County**

*Flatiron Building*, 1223-1225 SW Stark St., Portland, 89000200  
*Loeff, Charles, 20-Sweep Menagerie Carousel (Oregon Historic Wooden Carousels TR)*, Holladay St. at NE Eighth Ave., Portland, 89000206

**Tillamook County**

*US Naval Air Station Dirigible Hangers A and B*, Off US 101 2.5 mi. SE of Tillamook, Tillamook vicinity 89000201

**VIRGINIA****Culpepper County**

*Slaughter—Hill House*, 306 N. West St., Culpepper 89000203

**Powhatan County**

*St. Luke's Episcopal Church*, 2245 Huguenot Trail, Fine Creek Mill vicinity, 8900193

**WASHINGTON****Clark County**

*Lambert School*, 21814 NW 11th, Ridgefield vicinity, 89000216  
*Venersborg School*, NE 209th St at NE 242nd Ave., Battle Ground vicinity, 89000215

**King County**

*Selleck Historic District*, SE 252nd, Selleck vicinity, 89000214  
*Snoqualmie School Campus*, Silva and King Sts., Snoqualmie, 89000209

**Kittitas County**

*Milwaukee Road Bunkhouse*, 526 Marie, South Cle Elum, 89000210

**Mason County**

*Hartstene Island Community Hall*, North Island Dr. and Hartstene Island Dr., Hartstene Island vicinity, 89000212

**Pierce County**

*Browns Point Lighthouse and Keeper's Cottage*, 201 Tulalip NE, Tacoma vicinity, 89000208

**Spokane County**

*Binkley, J.W. House*, 628 S. Maple, Spokane, 89000211  
*Cambern Dutch Shop Windmill*, S. 1102 Perry, Spokane, 89000213

**WEST VIRGINIA****Doddridge County**

*Krenn School*, Co. Rt. 66/Little Buck Run Rd., New Milton, 89000181

**Harrison County**

*Salem College Administration Building*, 223 W. Main St., Salem, 89000184

**Nicholas County**

*Nicholas County High School*, Main St., Summerville, 89000185

**Ohio County**

*Franzheim, Harry C. and Jessie F., House*, 404 S. Front St., Wheeling, 89000183

**Roane County**

*Robey Theatre*, 318 Main St., Spencer, 89000182

**Wayne County**

*Miller, Joseph S., House*, 748 Beech St., Kenova, 89000180

[FR Doc. 89-4627 Filed 2-27-89; 8:45 am]

BILLING CODE 4310-70-M

**Bureau of Reclamation**

**American River Service Area Water Contracting Program, California; Public Hearing**

**AGENCY:** Bureau of Reclamation (USBR).

**ACTION:** Additional public hearing on draft environmental impact statement (INT DES 88-60).

**SUMMARY:** Due to responses and requests concerning the Draft Environmental Impact Statement (DEIS) on water contracting in the American River Service Area, an additional public hearing has been scheduled.

**DATE AND ADDRESSES:** The additional public hearing will be held at 7:00 p.m. at the following location:

Tuesday, March 28, 1989  
 Holiday Inn, 1900 Hilltop Drive, Redding, CA.

**FOR FURTHER INFORMATION CONTACT:** Mr. Bill Payne or Mr. William Tully (Bureau of Reclamation, Mid-Pacific Region, Sacramento, CA 95825), (916) 978-5130; or Dr. Wayne Deason (Manager, Environmental Services, Denver, CO, (303) 236-9336.

**SUPPLEMENTARY INFORMATION:** The previously published Notice of Availability of the DEIS and Notice of Public Hearings (54 FR 195, January 4, 1989) and the Notice of Extension of Review Period on DEIS and Change of Public Hearing Dates (54 FR 6180, February 8, 1989) have not been modified. The four previously announced public hearings are still scheduled for 7:00 p.m. at the following locations:

Tuesday, March 14, 1989  
 Blue Gum Restaurant, Highway 99W, Willows, CA.

Thursday, March 16, 1989  
 Holiday Inn/Holidome, Sonora Room, 5321 Date Avenue, Sacramento, CA.

Tuesday, March 21, 1989  
 Center Plaza Holiday Inn, Conference Center, Salons D1 and D2, 2233 Ventura, Fresno, CA.

Thursday, March 23, 1989  
 Concord Hilton, Baldwin & Chabot Rooms, 1970 Diamond Blvd., Concord, CA.

The comment period ends April 3, 1989. Comments on the DEIS may be submitted at any of the public hearings or submitted in writing to the Regional Director, Bureau of Reclamation, Mid-Pacific Region, Attention: MP-750, 2800 Cottage Way, Sacramento, California 95825-1898.

Date: February 22, 1989.

Joe D. Hall,

Deputy Commissioner.

[FR Doc. 89-4498 Filed 2-27-89; 8:45 am]

BILLING CODE 4310-09-M

**Delta Export Service Area Water Contracting Program, California; Public Hearing.**

**AGENCY:** Bureau of Reclamation (USBR).

**ACTION:** Additional public hearing on draft environmental impact statement (INT DES 88-61).

**SUMMARY:** Due to responses and requests concerning the Draft Environmental Impact Statement (DEIS) on water contracting in the Delta Export Service Area, an additional public hearing has been scheduled.

**DATE AND ADDRESSES:** The additional public hearing will be held at 7:00 p.m. at the following location:

Tuesday, March 28, 1989  
 Holiday Inn, 1900 Hilltop Drive, Redding, CA.

**FOR FURTHER INFORMATION CONTACT:** Mr. Bill Payne or Mr. William Tully (Bureau of Reclamation, Mid-Pacific Region, Sacramento, CA 95825), (916) 978-5130; or Dr. Wayne Deason (Manager, Environmental Services, Denver, CO, (303) 236-9336.

**SUPPLEMENTARY INFORMATION:** The previously published Notice of Availability of the DEIS and Notice of Public Hearings (54 FR 196, January 4, 1989) and the Notice of Extension of Review Period on DEIS and Change of Public Hearing Dates (54 FR 6180, February 8, 1989) have not been modified. The four previously announced public hearings are still scheduled for 7:00 p.m. at the following locations:

Tuesday, March 14, 1989  
 Blue Gum Restaurant, Highway 99W, Willows, CA.

Thursday, March 16, 1989  
 Holiday Inn/Holidome, Sonora Room, 5321 Date Avenue, Sacramento, CA.

Tuesday, March 21, 1989  
 Center Plaza Holiday Inn, Conference Center, Salons D1 and D2, 2233 Ventura, Fresno, CA.

Thursday, March 23, 1989



Concord Hilton, Baldwin & Chabot  
Rooms, 1970 Diamond Blvd.,  
Concord, CA.

The comment period ends April 3, 1989. Comments on the DEIS may be submitted at any of the public hearings or submitted in writing to the Regional Director, Bureau of Reclamation, Mid-Pacific Region, Attention: MP-750, 2800 Cottage Way, Sacramento, California 95825-1989.

Date: February 22, 1989.

Joe D. Hall,

Deputy Commissioner.

[FR Doc. 89-4499 Filed 2-27-89; 8:45 am]

BILLING CODE 4310-09-M

### **Sacramento River Service Area Water Contracting Program, California; Public Hearing**

**AGENCY:** Bureau of Reclamation (USBR).

**ACTION:** Additional public hearing on draft environmental impact statement (INT DES 88-59).

**SUMMARY:** Due to responses and requests concerning the Draft Environmental Impact Statement (DEIS) on water contracting in the Sacramento River Service Area, an additional public hearing has been scheduled.

**DATES AND ADDRESSES:** The additional hearing will be held at 7:00 p.m. at the following location:

Tuesday, March 28, 1989

Holiday Inn, 1900 Hilltop Drive,  
Redding, CA.

#### **FOR FURTHER INFORMATION CONTACT:**

Mr. Bill Payne or Mr. William Tully (Bureau of Reclamation, Mid-Pacific Region, Sacramento, CA 95825), (916) 978-5130; or Dr. Wayne Deason (Manager, Environmental Services, Denver, CO), (303) 236-9336.

**SUPPLEMENTARY INFORMATION:** The previously published Notice of Availability of the DEIS and Notice of Public Hearings (54 FR 197, January 4, 1989) and the Notice of Extension of Review Period on DEIS and Change of Public Hearing Dates (54 FR 6180, February 8, 1989) have not been modified. The four previously announced public hearings are still scheduled for 7:00 p.m. at the following locations:

Tuesday, March 14, 1989

Blue Gum Restaurant, Highway 99W,  
Willows, CA.

Thursday, March 16, 1989

Holiday Inn/ Holidome, Sonora Room,  
5321 Date Avenue, Sacramento, CA.

Tuesday, March 21, 1989

Center Plaza Holiday Inn, Conference  
Center, Salons D1 and D2, 2233

Ventura, Fresno, CA

Thursday, March 23, 1989

Concord Hilton, Baldwin & Chabot  
Rooms, 1970 Diamond Blvd.,  
Concord, CA.

The comment period ends April 3, 1989. Comments on the DEIS may be submitted at any of the public hearings or submitted in writing to the Regional Director, Bureau of Reclamation, Mid-Pacific Region, Attention: MP-750, 2800 Cottage Way, Sacramento, California 95825-1989.

Date: February 22, 1989.

Joe D. Hall,

Deputy Commissioner.

[FR Doc. 89-4500 Filed 2-27-89; 8:45 am]

BILLING CODE 4310-09-M

### **INTERNATIONAL TRADE COMMISSION**

[Investigation No. TA-131(b)-14]

#### **Probable Economic Effect on U.S. Industries and Consumers of Modification of U.S. Tariffs and Modification or Removal of Certain U.S. Nontariff Measures; Cancellation of Hearing**

**AGENCY:** United States International Trade Commission.

**ACTION:** Cancellation of the Commission's scheduled public hearing in Kansas City, MO, in connection with investigation No. TA-131(b)-14.

**SUMMARY:** The public hearing scheduled for Kansas City, MO on March 2, 1989, has been cancelled. Notices of the public hearing were published in the *Federal Register* on November 23, 1988 (53 FR 47589) and December 30, 1988 (53 FR 53077).

By order of the Commission.

Kenneth R. Mason,  
Secretary.

Issued: February 23, 1989.

[FR Doc. 89-4716 Filed 2-27-89; 8:45 am]

BILLING CODE 7020-02-M

### **INTERSTATE COMMERCE COMMISSION**

[Finance Docket No. 31390]

#### **Chicago West Pullman Corp. and Chicago West Pullman Transportation Corp.; Control Exemption**

**AGENCY:** Interest Commerce Commission.

**ACTION:** Notice of exemption.

**SUMMARY:** Pursuant to 49 U.S.C. 10505, the Interstate Commerce Commission

exempts Chicago West Pullman Corporation and Chicago West Pullman Transportation Corp. from the requirements of 49 U.S.C. 11343 to acquire control of Chicago Rail Link, subject of standard labor protective conditions.

**DATES:** This exemption will be effective on March 10, 1989. Petitions for reconsideration must be filed by March 20, 1989.

**ADDRESSES:** Sent pleadings referring to Finance Docket No. 31390 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Edward K. Wheeler, Wheeler & Wheeler, 1625 K Street, NW., Washington, DC 20006.

**FOR FURTHER INFORMATION CONTACT:** Joseph H. Dettmar, (202) 275-7245. (TDD for hearing impaired: (202) 275-1721).

#### **SUPPLEMENTARY INFORMATION:**

Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359. (Assistance for the hearing impaired is available through TDD services (202) 275-1721).

Decided: February 21, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley, and Phillips.

Noreta R. McGee,  
Secretary.

[FR Doc. 89-4515 Filed 2-27-89; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30300]

#### **CSX Corp., Control; American Commercial Lines, Inc. (Oversight Proceeding)**

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Notice of Fourth Oversight Proceeding.

**SUMMARY:** In *CSX Corporation—Control—American Commercial Lines, Inc.*, 2 I.C.C. 2d. 490, the Commission authorized the acquisition of control by several class I railroads, of American Commercial Lines (ACL) and its water carrier subsidiary, American Commercial Barge Lines Company (ACBL). The Commission also imposed reporting and oversight conditions upon CSX and established a procedure for an oversight proceeding. These conditions are set forth in Appendix E to the



consolidation decision. The reporting condition requires CSX to file financial and rate information annually for a total period of 5 years. By decision served February 28, 1986, published at 51 Federal Register 7140 (February 28, 1986), the Commission instituted the first oversight proceeding. Public comments regarding any adverse or beneficial effects of the consolidation were sought. Also the proceeding was assigned to the Commission's Office of Hearings for a recommendation. In a decision served July 25, 1986, the presiding administrative law judge summarized the public comments and recommended that the proceeding not be reopened. It was concluded that competition in the ACBL market area is not diminished. As required by the decision of the Commission in 2 I.C.C. 2d 490, second and third oversight proceedings were instituted in 1987 and 1988, respectively. Conclusions reached therein were substantially identical to those noted above which were drawn in the first of 1986 proceeding. This notice provides for a commencement a fourth oversight proceeding.

Any interested party may submit comments concerning the acquisition of ACBL by CSX relative to the statutory standards of 49 U.S.C. 11321. These comments are due on or before April 30, 1989. In this regard, parties seeking to reopen the proceeding based on allegations of noncompliance with statutory standards must provide evidence of specific problems flowing from the consolidation. After receipt of public comments, the proceeding will be assigned to a presiding administrative law judge. Upon his own motion or upon request of the parties, the ALJ may order that oral hearings be held and may receive additional written and oral evidence and argument. Proceedings before the ALJ are to be completed by June 30, 1989. The ALJ then will prepare a report to the Commission which will be served on applicants and on commenting parties no later than July 31, 1989.

**DATES:** Comments are due on or before April 30, 1989.

**ADDRESSES:** Send comments referring to Finance Docket No. 30300 to:

- (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.
- (2) CSX's representative, G Paul Moates, 1722 Eye Street, NW., Washington, DC 20006.

**FOR FURTHER INFORMATION CONTACT:** Paul S. Cross, (202) 275-7474.

**SUPPLEMENTARY INFORMATION:**

Additional information is contained in the Commission's decision in CSX

**Corporation—Control—American Commercial Lines, Inc., 2 I.C.C. 2d 490.**

Decided: February 22, 1989.

By the Commission, Paul S. Cross, Chief Administrative Law Judge.

Noreta R. McGee,

Secretary.

[FR Doc. 89-4593 Filed 2-27-89; 8:45 am]

BILLING CODE 7035-01-M

**[Service Order No. 1506]**

**Decision; The New York, Susquehanna and Western Railway Corporation Authorized To Operate Tracks of Delaware and Hudson Railway Co., Debtor (Francis P. Dicello, Trustee)**

Decided: February 22, 1989.

By decision served February 13, 1989, under 49 U.S.C. 11123(a), we authorized the New York, Susquehanna and Western Railway Corporation (NYS&W) to operate without Federal subsidy or other Federal compensation over tracks of the Delaware and Hudson Railway Company (D&H) for 30 days, i.e., from February 14 through March 15, 1989. We also sought comments on an extension of the authority beyond the 30-day emergency period and set the matter for hearing regarding service after that period.

An oral hearing will be held on March 7, 1989, at 10:00 a.m. in Hearing Room A of the Interstate Commerce Commission Building in Washington, DC. The parties (and any other interested persons) shall notify the Commission of the names of their speakers and the amount of time requested for each. Parties must inform Beryl Gordon, Room 2144, telephone (202) 275-7245, by close of business February 27, 1989. We will then issue a schedule of appearances for the hearing and specify any issue the parties should be prepared to address.

This decision will be served on all parties to this proceeding including those listed in our June 22, 1988 decision in Finance Docket No. 31295, as well as the Trustee in Bankruptcy and the U.S. District Court for the District of Delaware (Bankruptcy Filing No. 88-342). This decision shall also be served upon the Federal Railroad Administration, the Association of American Railroads as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this decision shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, DC, and by filing a copy

with the Director, Office of the Federal Register.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley, and Phillips.

Noreta R. McGee,

Secretary.

[FR Doc. 89-4591 Filed 2-27-89; 8:45 am]

BILLING CODE 7035-01-M

**Indexing the Annual Operating Revenues of Railroads, Motor Carriers of Property and Motor Carriers of Passengers**

This Notice sets forth the annual inflation adjusting index numbers which are used to adjust gross annual operating revenues of railroads, motor carriers of property and motor carriers of passengers for classification purposes. This indexing methodology will insure that regulated carriers are classified based on real business expansion and not from the effects of inflation. Classification is important because it determines the extensiveness of reporting for each carrier.

The railroad's inflation factors are based on the annual average Railroads Freight Price Index. For motor carriers of property, and passenger carriers, the inflation factors are based on the annual average Producer Price Index for all commodities. The indexes are developed by the Bureau of Labor Statistics. (BLS)

The base years for railroads, motor carriers of property, and passenger motor carriers are 1978, 1980, and 1988 respectively.

The inflation index factors for 1986, 1987 and 1988 are presented as follows:

	Railroads—Railroad freight index	
	Index	Deflator percent
1978.....	213.1	
1986.....	377.4	56.47
1987.....	374.8	56.86
1988.....	392.1	54.35
	Motor Carriers of Property Producer Price Index <sup>1</sup>	
	Index	Deflator percent
1980.....	89.8	
1986.....	100.2	89.62
1987.....	102.8	87.35
1988.....	106.9	84.00
1988.....	106.9	

<sup>1</sup> The invoices and deflator percentages for motor carriers of property were adjusted to reflect changes by the BLS.

**EFFECTIVE DATE:** January 1, 1989.



**FOR FURTHER INFORMATION CONTACT:**  
William G. Norris, (202) 275-7510.  
Noreta R. McGee,  
Secretary.  
[FR Doc. 89-4592 Filed 2-27-89; 8:45 am]  
BILLING CODE 7035-01-M

## DEPARTMENT OF LABOR

### Office of the Secretary

#### All Items Consumer Price Index for All Urban Consumers; United States City Average

Pursuant to section 112 of the 1976 amendments to the Federal Election Campaign Act (Pub. L. 94-283, 2 U.S.C. 441a), the Secretary of Labor has certified to the Chairman of the Federal Election Commission and publishes this notice in the *Federal Register* that the United States City Average All Items Consumer Price Index for All Urban Consumer (1967=100) increased 139.9 percent from its 1974 annual average of 147.7 to its 1988 annual average of 354.3. Using 1974 as a base (1974=100), I certify that the United States City Average All Items Consumer Price Index for All Urban Consumers thus increased 139.9 percent from its 1974 annual average of 100 to its 1988 annual average of 239.9.

Signed at Washington, DC, on the 23rd day of February 1989.

Elizabeth Dole,

Secretary of Labor.

[FR Doc. 89-4530 Filed 2-27-89; 8:45 am]

BILLING CODE 4510-24-M

#### All Items Consumer Price Index for All Urban Consumers; United States City Average

Pursuant to section 604(c) of the Motor Vehicle Information and Cost Savings Act, which was added to the Motor Vehicle Theft Law Enforcement Act of 1984, and the delegation of the Secretary of Transportation's responsibilities under that Act to the Administrator of the National Highway Traffic Safety Administration (49 CFR 501.2(f)), the Secretary of Labor has certified to the Administrator and published this notice in the *Federal Register* that the United States City Average All Items Consumer Price Index for All Urban Consumers (1967=100) increased 13.9 percent from its 1984 base period annual average of 311.1 to its 1988 annual average of 354.3.

Signed at Washington, DC, on the 23rd day of February 1989.

Elizabeth Dole,

Secretary of Labor.

[FR Doc. 89-4531 Filed 2-27-89; 8:45 am]

BILLING CODE 4510-24-M

#### Employment and Training Administration

#### Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; A. Bet-A Industries et al.

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions,

the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustments assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 10, 1989.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 10, 1989.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213.

Signed at Washington, DC, this 6th day of February 1989.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

#### APPENDIX

Petitioner: Union/workers/firm—	Location	Date received	Date of petition	Petition No.	Articles produced
A. Beta-A Industries (UTWU)	Little Falls, NJ	2/6/89	1/20/89	22,423	Tubes & Cores.
American Shizuki Corp (ASC) (workers)	Ogallala, NE	2/6/89	1/17/89	22,424	Electronic Capacitors.
Associated Electric Cooperative, Inc. Mining Div. (UMWA)	Moberly, MO	2/6/89	1/16/89	22,425	Coal.
Carroll Shoe Co. (ACTWU)	Summersville, WV	2/6/89	1/18/89	22,426	Shoes.
Cincinnati Milacron, Inc. (company)	Cincinnati, OH	2/6/89	1/18/89	22,427	Machins Tools.
Cincinnati Milacron, Inc. (company)	Batavia, OH	2/6/89	1/18/89	22,428	Machine Tools.
Cincinnati Milacron, Inc. (company)	Lebanon, OH	2/6/89	1/18/89	22,429	Machine Tools.
Cincinnati Milacron, Inc. (company)	Mount Oreb, OH	2/6/89	1/18/89	22,430	Machine Tools.
Cincinnati Milacron, Inc. (company)	Worcester, MA	2/6/89	1/18/89	22,431	Machine Tools.
Cincinnati Milacron, Inc. (company)	Fountain Inn, SC	2/6/89	1/18/89	22,432	Machine Tools.
Cincinnati Milacron, Inc. (company)	Greenwood, SC	2/6/89	1/18/89	22,433	Machine Tools.
Cincinnati Milacron, Inc. (company)	Wilmington, SC	2/6/89	1/18/89	22,434	Machine Tools.
Cincinnati Milacron, Inc. (company)	Blanchester, OH	2/6/89	1/18/89	22,435	Machine Tools.
Cincinnati Milacron, Inc. (company)	Santa Fe, CA	2/6/89	1/18/89	22,436	Machine Tools.
Cincinnati Milacron, Inc. (company)	Miami, FL	2/6/89	1/18/89	22,437	Machine Tools.
Cincinnati Milacron, Inc. (company)	Arlington, IL	2/6/89	1/18/89	22,438	Machine Tools.
Cincinnati Milacron, Inc. (company)	Farmington Hills, MI	2/6/89	1/18/89	22,439	Machine Tools.
Cincinnati Milacron, Inc. (company)	Somerset, NJ	2/6/89	1/18/89	22,440	Machine Tools.
Cincinnati Milacron, Inc. (company)	Charlotte, NC	2/6/89	1/18/89	22,441	Machine Tools.
Cincinnati Milacron, Inc. (company)	Grand Prairie	2/6/89	1/18/89	22,442	Machine Tools.
Columbian Rope Co. (workers)	Guntown, MS	2/6/89	1/19/89	22,443	Rope.
Comdial (workers)	Shenandoah, VA	2/6/89	1/20/89	22,444	Telephones.
Control Data Corp. Gov't Systems Mfg Div. (workers)	Eden Prairie, MN	2/6/89	1/23/89	22,445	Avionic Systems.
Cooper Industries, Flow Control Div. (workers)	Missouri City, TX	2/6/89	1/5/89	22,446	Oilfield Equipment.



## APPENDIX—Continued

Petitioner: Union/workers/firm—	Location	Date received	Date of petition	Petition No.	Articles produced
Eaton Corporation, Electronic Drive Div. (IAMAW).....	Kenosha, WI.....	2/6/89	1/16/89	22,447	Industrial Drives.
Gage Fina Truck Stop (workers).....	Sweetwater, TX.....	2/6/89	1/12/89	22,448	Truck-Stop.
George Koch Sons, Inc. (workers).....	Evansville, IN.....	1/30/89	1/16/89	22,449	Paint.
H.R. Johnson (OCAW).....	Keyport, NJ.....	2/6/89	1/11/89	22,450	Tile.
Harnischfeger Corp. (UAW).....	Cedar Rapids, IA.....	2/6/89	1/19/89	22,451	Hydraulic Cranes.
Jen-Dee (workers).....	Mahanoy City, PA.....	2/6/89	1/6/89	22,452	Sleepwear.
LORBrook Corp. (ACTWU).....	Hudson, NY.....	2/6/89	11/21/89	22,453	Auto Parts.
Machlett Laboratories (workers).....	Stanford, CT.....	2/6/89	1/25/89	22,454	Medical Products.
Maine Electronics (workers).....	Lisbon, ME.....	2/6/89	1/17/89	22,455	Circuit Boards.
Magnetek, Inc.-Louis Allis Div. (UWA).....	Milwaukee, WI.....	2/6/89	12/8/89	22,456	Generators.
NCS Development (workers).....	Solon, OH.....	2/6/89	1/19/89	22,457	Copper Tubing.
Nish-Nah-Bee Industries (workers).....	Traverse City, MI.....	2/6/89	1/18/89	22,458	Wire Harnesses
Phillips Petroleum, Co. (workers).....	Oklahoma City, OK.....	2/6/89	1/23/89	22,459	Oil & Gas.
Quinoco Petroleum (workers).....	Denver, CO.....	2/6/89	1/5/89	22,460	Oil & Gas.
R.E. Smith Interests (workers).....	Snyder, TX.....	2/6/89	1/11/89	22,461	Oil & Gas.
Rockland Industries, Inc. (workers).....	Rockland, ME.....	2/6/89	12/14/89	22,462	Leather.
TJ&C Oilfield Service (workers).....	Hobbs, NM.....	2/6/89	1/3/89	22,463	Oil & Gas.
Terra Resources, Inc. (workers).....	Irving, TX.....	2/6/89	1/12/89	22,464	Oil & Gas.
U.S. Tire (workers).....	Omaha, NE.....	2/6/89	1/9/89	22,465	Tires.

[FR Doc. 89-4528 Filed 2-27-89; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-22,011; TA-W-22,035; TA-W-22,036]

**B.B. And K Oil Co.; Freeman Drilling, and Freeman and Freeman, Bradford, PA; Termination of Investigation**

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on November 18, 1988 in response to a worker petition received on November 18, 1988 on behalf of workers at B.B. and K. Oil Company, Freeman Drilling and Freeman and Freeman.

B.B. and K Oil Company, Freeman Drilling and Freeman and Freeman is a dual operating a firm involving of three corporations, each consisting of a single individual. Section 222 of the Trade Act specifies the group eligibility requirements for trade adjustment assistance benefits; the definition of "group," according to Section 90.1 of the Rules and Regulations for administering the Trade Act, is three or more workers in a firm or an appropriate subdivision thereof. Since B.B. and K Oil Company, Freeman Drilling and Freeman and Freeman did not employ three workers, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 9th day of February 1989.

Marvin M. Fooks,  
Director, Office of Trade Adjustment Assistance.

[FR Doc. 89-4518 Filed 2-27-89; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-21,809]

**Cactus Drilling Co., Odessa, TX; Termination of Investigation**

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on November 18, 1988 in response to a worker petition which was filed on behalf of workers at Cactus Drilling Company, Odessa, Texas.

The investigation revealed that Cactus Drilling Company only has a facility in Midland, Texas and that the petitioning group of workers are being considered for Trade Adjustment Assistance under the Cactus Drilling Company, Midland, Texas, petition [TA-W-21,807]. The petitioning group of workers are subject to an ongoing investigation for which a determination has not yet been issued (TA-W-21,807). Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, DC this 9th day of February 1989.

Marvin M. Fooks,  
Director, Office of Trade Adjustment Assistance.

[FR Doc. 89-4519 Filed 2-27-89; 8:45 am]

BILLING CODE 4510-30-M

TA-W-21,350, et al.]

**Grace Drilling Co., Inc. et al.; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on December 20, 1988. The

Certification will be published in the Federal Register soon.

The Department is amending the certification, on its own motion, to properly reflect the appropriate worker groups of Grace Drilling Company, Incorporated.

The intent of the certification is to cover all workers of Grace Drilling Company in Odessa, Texas; Shreveport, Louisiana; Lafayette, Louisiana; Ft. Smith, Arkansas; Houston, Texas; Oklahoma City, Oklahoma; Golden, Colorado; Dallas, Texas and BOMAC/Grace Drilling Company, Inc., in Williston, North Dakota who were adversely affected by increased imports of articles like or directly competitive with crude oil.

The amended notice applicable to TA-W-21,350 and 21,399 is hereby issued as follows:

All workers of Grace Drilling Company, Inc., operating at the various locations in the States listed below who became totally or partially separated from employment on or after October 1, 1985 and before January 1, 1987 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-21,350 Odessa, Texas  
TA-W-21,350A Shreveport, Louisiana  
TA-W-21,350B Lafayette, Louisiana  
TA-W-21,350C Ft. Smith, Arkansas  
TA-W-21,350D Houston, Texas  
TA-W-21,350E Oklahoma City, Oklahoma  
TA-W-21,350F Golden, Colorado  
TA-W-21,350G Dallas, Texas  
TA-W-21,399 Williston, North Dakota



Signed at Washington, DC, this 7th day of February 1989.

Robert O. Deslongchamps,  
Director, Office of Legislation and Actuarial  
Services, UIS.

[FR Doc. 89-4527 Filed 2-27-89; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-21,176; et al.]

**Dowell Schlumberger, Inc.; Amended  
Certification Regarding Eligibility To  
Apply for Worker Adjustment  
Assistance**

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on November 25, 1988 applicable to all workers of Dowell Schlumberger, Inc., Sonora, Texas (TA-W-21,176) and Dowell Schlumberger, Inc., Houston, Texas and all locations in the cited subject States. The Certification will be published in the Federal Register soon.

Based on new information furnished to the Department by the company, that substantial worker separations occurred after the October 1, 1987 termination date, resulting from a decreased demand for drilling and exploration activities from oil and industry clients, the Department is amending its certification by deleting the termination date.

The intent of the certification is to cover all workers of Dowell Schlumberger, Inc., at the various locations cited in the subject certifications. The amended notice applicable to TA-21,176 and TA-W-21,715 is hereby issued as follows:

All workers of Dowell Schlumberger, Incorporated, Sonora, Texas, (TA-W-21,176) and Dowell Schlumberger, Incorporated, Headquarters Houston, Texas, (TA-W-21,715) and at all locations in the following cited States who became totally or partially separated from employment on or after October 1, 1985 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974:

TA-W-21,715A Alaska  
TA-W-21,715B Arkansas  
TA-W-21,715C California  
TA-W-21,715D Colorado  
TA-W-21,715E Florida  
TA-W-21,715F Illinois [except Mt.  
Carmel, Il. (TA-W-21,336)]  
TA-W-21,715G Kansas  
TA-W-21,715H Kentucky  
TA-W-21,715I Louisiana  
TA-W-21,715J Michigan  
TA-W-21,715K Mississippi  
TA-W-21,715L Nebraska  
TA-W-21,715M New Jersey  
TA-W-21,715N New Mexico  
TA-W-21,715O New York

TA-W-21,715P North Carolina  
TA-W-21,715Q North Dakota  
TA-W-21,715R Ohio  
TA-W-21,715S Oklahoma  
TA-W-21,715T Pennsylvania  
TA-W-21,715U Texas  
TA-W-21,715V Utah  
TA-W-21,715W West Virginia  
TA-W-21,715X Wyoming

Signed at Washington, DC, this 15th day of February 1989.

Barbara Ann Farmer,  
Director, Office of Program Management,  
UIS.

[FR Doc. 89-4526 Filed 2-27-89; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-21,871]

**Hudgeons Oil Co., El Dorado, AR;  
Termination of Investigation**

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated in response to a worker petition received on November 18, 1988 which was filed on behalf of workers of Hudgeons Oil Company, El Dorado, Arkansas.

The investigation revealed that Hudgeons Oil Company was in operation from February through August 1988. Due to the brief period of time that the subject firm was in business, it is not possible to accurately measure the effect of imports on the revenue and employment at Hudgeons Oil Company. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 9th day of February 1989.

Marvin M. Fooks,  
Director, Office of Trade Adjustment  
Assistance.

[FR Doc. 89-4520 Filed 2-27-89; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-21,730]

**Kirkwood Oil & Gas, Casper, WY;  
Affirmative Determination Regarding  
Application for Reconsideration**

One of the former workers requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for workers and former workers of Kirkwood Oil & Gas, Casper, Wyoming. The negative determination was issued on December 20, 1988 and will soon be published in the Federal Register.

The company submitted additional information showing that it was substantially involved in geological

exploration on oil and gas lease properties through 1986.

**Conclusion**

After careful review of the application, I conclude that the claims are of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application, is therefore, granted.

Signed at Washington, DC, this 15th day of February 1989.

Barbara Ann Farmer,  
Director, Office of Program Management,  
UIS.

[FR Doc. 89-4524 Filed 2-27-89; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-21,897]

**The Marietta Royalty Co., Inc.,  
Stillwater, OK; Termination of  
Investigation**

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on November 18, 1988 in response to a worker petition which was filed on behalf of workers at The Marietta Royalty Company, Incorporated, Stillwater, Oklahoma.

The petitioning group of workers are employed at the Marietta, Ohio plant of Marietta Royalty Company and the intent of the petitioners was for the investigation to cover the Marietta, Ohio facility. An investigation, for which a determination has not yet been issued (TA-W-21,898), is currently ongoing with respect to the Marietta, Ohio plant. Consequently, further investigation of the Stillwater, Oklahoma facility would serve no purpose; and this investigation has been terminated.

Signed at Washington, DC, this 9th day of February 1989.

Marvin M. Fooks,  
Director, Office of Trade Adjustment  
Assistance.

[FR Doc. 89-4521 Filed 2-27-89; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-21,120]

**Milprint, Inc., Milwaukee, WI; Negative  
Determination Regarding Application  
for Reconsideration**

By an application dated December 30, 1988 Local #356 of the United Paperworkers International Union requested administrative reconsideration of the Department of Labor's Notice of Negative Determination for workers at Milprint, Inc., Milwaukee, Wisconsin. The denial notice was signed on November 18, 1988



and is scheduled to be published in the Federal Register soon.

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

- (1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;
- (2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or
- (3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The union states that the product produced in the Education Department at Milprint, Inc. was transvision. The union also states that part of the company's rationale for moving transvision production to another company plant in Ohio was foreign competition.

Investigation findings do not support the union's claim that transvision production was transferred to Ohio because of foreign competition. Transvision production increased in 1987 compared to 1986 and did not decline in 1988 compared to 1987. The findings show that in 1987 and 1988 transvision production accounted for less than five percent of the production at Milwaukee.

The findings further show that the major share of production at Milwaukee consisted of food packaging whether flexographic, extrusion, lamination or rotogravure. With the exception of the rotogravure this production was transferred to other domestic corporate plants in 1988. Further, company wide sales did not decline in the first eight months of fiscal year 1988 compared to the same period of fiscal year 1987. A transfer of production to another domestic plant would not provide a basis for a certification. Finally, U.S. imports of food containers were negligible in 1986 and 1987 compared to U.S. shipments.

Investigation findings show that in August 1988, the company opted to go out of rotogravure printing for packaging for a number of reasons unrelated to imports. The findings show that the rotogravure machinery was sold to domestic companies.

#### Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of

Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 9th day of February 1989.

Barbara Ann Farmer,  
Director, Office of Program Management,  
U.S.

[FR Doc. 89-4525 Filed 2-27-89; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-21, 759; TA-W-21, 760]

#### Service Acid, Inc.; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on November 18, 1988 in response to a worker petition which was filed on behalf of workers at Service Acid, Incorporated, in Great Bend (TA-W-21, 759) and Colby (TA-W-21, 760), Kansas.

The investigation revealed that the petitioning group of workers work were applying for their facility of Service Acid, Incorporated in Hays, Kansas. An active certification covering the petitioning group of workers remains in effect (TA-W-21, 477). Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, DC this 9th day of February 1989.

Marvin M. Fooks,  
Director, Office of Trade Adjustment  
Assistance.

[FR Doc. 89-4522 Filed 2-27-89; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-21, 978]

#### Teleco Oilfield Services, Inc., Meriden, CT; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated in response to a worker petition received on November 18, 1988 which was filed on behalf of workers performing oil and gas field services at Teleco Oilfield Services, Incorporated, Meriden, Connecticut.

An active certification covering the petitioning group of workers remains in effect (TA-W-21, 770). Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, DC this 9th day of February 1989.

Marvin M. Fooks,  
Director, Office of Trade Adjustment  
Assistance.

[FR Doc. 89-4523 Filed 2-27-89; 8:45 am]

BILLING CODE 4510-30-M

#### Occupational Safety and Health Administration

[Docket No. NRTL-1-89]

#### ETL Testing Laboratories, Inc.; Application for Recognition as a Nationally Recognized Testing Laboratory

**AGENCY:** Occupational Safety and Health Administration, Department of Labor.

**ACTION:** Notice of application for recognition as a nationally recognized testing laboratory, and preliminary finding.

**SUMMARY:** This notice announces the application of the ETL Testing Laboratories, Inc., for recognition as a Nationally Recognized Testing Laboratory (NRTL) under 29 CFR 1910.7, and presents the Agency's preliminary finding.

**DATES:** The last date for interested parties to submit comments is May 1, 1989.

#### ADDRESS:

Send comments to:

NRTL Recognition Program, Office of  
Variance Determination,  
Occupational Safety and Health  
Administration, U.S. Department of  
Labor, Third Street and Constitution  
Avenue, NW., Room N3653,  
Washington, DC 20210.

**FOR FURTHER INFORMATION CONTACT:**  
James J. Concannon, Director, Office of  
Variance Determination, NRTL  
Recognition Program, at the above  
address, Telephone: (202) 523-7193.

#### SUPPLEMENTARY INFORMATION:

##### Notice of Application

Notice is hereby given that ETL Testing Laboratories, Inc., has made application pursuant to section 6(b) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 29 U.S.C. 655), Secretary of Labor's Order No. 9-83 (48 FR 35763), and 29 CFR 1910.7 for recognition as a Nationally Recognized Testing Laboratory.

The addresses of the applicant's laboratories are as follows:

ETL Testing Laboratories, Inc., Cortland  
Safety Division, Industrial Park,  
Cortland, New York 13045.

ETL Testing Laboratories, Inc., 5855-P  
Oakbrook Parkway, Norcross,  
Georgia 30093.

ETL Testing Laboratories, Inc., West  
Coast Division, 660 Forbes Boulevard,  
South San Francisco, California 94080.

Regarding the merits of the application, the applicant contends that it meets the requirements of 20 CFR



1910.7 for recognition as Nationally Recognized Testing Laboratory in the areas of testing which it has specified.

ETL Testing Laboratories, Inc., states that one of the services it provides in the field of safety testing is a labeling, listing, and factory follow-up service for electrical and gas fired products which are evaluated to nationally recognized safety standards. The applicant further asserts that this service, or program, has undergone the scrutiny of the most stringent laboratory accreditation requirements in the United States such as those of Oregon, Washington, North Carolina, the City of Los Angeles and many others.

The applicant claims that this service includes an appeals procedure allowing a client to pursue several different avenues should a disagreement fail to be resolved at the project engineer or engineering management level. A written procedure has also been included in ETL's Quality Control Systems Manual to address and resolve complaints from end users and other interested parties regarding products listed by the applicant.

ETL states that it maintains a computerized list of test and calibration equipment at its calibration department. Most test instruments, according to the applicant, are calibrated in-house at Cortland, NY, by the Electrical Division of its Standards and Calibration Laboratory. It further asserts that all calibrations are performed to secure traceability to the National Institute of Standards and Technology (NIST), formerly known as the National Bureau of Standards, or to nationally recognized physical constants. Traceability to the NIST is obtained by way of the large number of reference standards maintained in the ETL Standards and Calibration Laboratory.

The applicant asserts that it implements control procedures for identifying listed or labeled materials and that it has written methods of monitoring proper use of its listing mark and labels on products, including policy and procedures, and direct and indirect investigations. Quarterly follow-up inspections on an unannounced basis are conducted to insure that a listed product is still being manufactured in the same manner as originally tested.

ETL further states that it maintains a large staff of highly qualified and experienced engineers, and has facilities adequate for the storage, handling and conditioning of products to be tested and materials or equipment to be utilized.

The applicant also assures that it maintains effective procedures for

producing creditable findings or reports that are objective and without bias.

Finally, ETL states that it has a Technical Advisory Council which was instituted in 1984 and which offers technical expertise not normally available to a testing agency. This Council, which is composed of leading experts in the field of public safety from across the country, also advises ETL on interpretations of codes and standards.

#### Background

According to the application, ETL Testing Laboratories, Inc. (ETL) was founded in New York City as the Lamp Testing Bureau in 1896 by the Edison Illuminating Companies. After 46 years of performing electrical, chemical and photometric tests, ETL was divested by the illuminating companies and purchased by its employees in 1942. By that time the name of the company had been changed to Electrical Testing Laboratories. In 1977, the Electrical Testing Laboratories, Inc., moved its operation to Cortland, New York. Soon after moving to Cortland, the name of the company was changed to ETL Testing Laboratories, Inc. In 1979, the decision was made to implement a product safety labeling, listing, and follow-up program equivalent to that of Underwriters' Laboratories, Inc. In 1984, ETL established a West Coast Division in South San Francisco, California to serve clients west of the Rocky Mountains, specializing in product safety testing. In 1985, a Southeast Division located in Norcross, Georgia was established. This Division also specializes in product safety testing. Also in 1985, ETL was purchased by its management, along with a New York based investment firm. In October 1988, the purchase of ETL Testing Laboratories, Inc., by Inchcape Inspection and Testing Services USA, Inc., was announced.

The Cortland Safety Division consists of 67 professional or technical employees (exclusive of the Norcross (Atlanta) laboratory which is a department under the Cortland Safety Division), as follows:

- 1—Safety Division Manager
- 4—Department Managers
- 1—Staff Engineer
- 2—Senior Engineers
- 9—Project Engineers
- 36—Field Engineers
- 3—Team Leaders
- 5—Technicians
- 5—Report Writers
- 1—Staff Assistant

The Norcross (Atlanta) laboratory consists of the following professional or technical personnel:

- 1—Department Manager

#### 3—Project Engineers

##### 1—Report Writer

The West Coast Division laboratory located in South San Francisco consists of the following professional or technical personnel:

- 1—Division Manager
- 4—Project Engineers
- 2—Technicians
- 1—Report Writer
- 2—Marketing

The applicant has submitted the following list of product categories for which it desires recognition as a Nationally Recognized Testing Laboratory. This list is configured as a list of test standards used, thereby defining the nationally recognized standards utilized by ETL in testing. All of the standards that ETL has indicated it will use are appropriate test standards within the meaning of 29 CFR 1910.7(c).

Standard	Product category
UL 4	Armored cable
UL 20	General-use snap switches
UL 22	Electric amusement machines
UL 45	Portable electric tools
UL 48	Electric signs
UL 50	Electrical cabinets and boxes
UL 67	Electric panelboards
UL 73	Electric motor-operated appliances
UL 82	Electric gardening appliances
UL 83	Thermoplastic-insulated wires and cables
UL 94	Tests for flammability of plastic materials for parts in devices and appliances
UL 98	Enclosed and dead-front switches
UL 114	Electric office appliances and business equipment
UL 122	Electric photographic equipment
UL 130	Electric heating pads
UL 141	Garment finishing appliances
UL 153	Portable electric lamps
UL 174	Household electric storage-tank water heaters
UL 184	Portable metal ladders
UL 187	X-ray equipment
UL 197	Commercial electric cooking appliances
UL 207	Refrigerant-containing components and accessories, non-electrical
UL 231	Electrical power outlets
UL 250	Household refrigerators and freezers
UL 291	Automated teller systems
UL 296	Oil burners
UL 298	Portable electric hand lamps
UL 303	Refrigeration and air conditioning condensing and compressor units
UL 310	Electrical quick-connect terminals
UL 325	Door, drapery, gate, louver, and window operators and systems
UL 399	Drinking-water coolers
UL 412	Refrigeration unit coolers
UL 416	Refrigerated medical equipment
UL 427	Refrigerating units
UL 429	Electrically operated valves
UL 430	Electric waste disposers
UL 464	Audible signal appliances
UL 465	Central cooling air conditioners
UL 466	Electric scales



Standard	Product category	Standard	Product category	Standard	Product category
UL 469	Musical instruments and accessories	UL 863	Electric time-indicating and recording appliances	UL 1436	Outlet circuit testers and similar indicating devices
UL 471	Commercial refrigerators and freezers	UL 867	Electrostatic air cleaners	UL 1438	Household electric drip-type coffee makers
UL 474	Dehumidifiers	UL 869	Electric service equipment	UL 1446	Systems of insulating materials—general
UL 478	Information-processing and business equipment	UL 873	Electrical temperature-indicating and regulating equipment	UL 1453	Electric booster and commercial storage tank water heaters
UL 482	Portable sun/heat lamps	UL 875	Electric sauna heating equipment	UL 1563	Electric hot tubs, spas, and associated equipment
UL 484	Room air conditioners	UL 883	Fan-coil units and room fan-heater units	UL 1564	Industrial battery chargers
UL 489	Molded-case circuit breakers and circuit-breaker enclosures	UL 891	Dead-front electrical switchboards	UL 1570	Fluorescent lighting fixtures
UL 496	Edison base lampholders	UL 913	Intrinsically safe apparatus and associated apparatus for use in class I, II, and III, division 1, hazardous locations	UL 1571	Incandescent lighting fixtures
UL 497	Protectors for communication circuits	UL 917	Clock-operated switches	UL 1572	High intensity discharge lighting fixtures
UL 498	Electrical attachment plugs and receptacles	UL 921	Commercial electric dishwashers	UL 1585	Class 2 and class 3 transformers
UL 499	Electric heating appliances	UL 923	Microwave cooking appliances	UL 1647	Motor-operated massage and exercise machines
UL 506	Specialty transformers	UL 935	Fluorescent-lamp ballasts	ANSI A17.1	Electric safety code for elevators, dumbwaiters, escalators and moving walks
UL 507	Electric fans	UL 943	Ground-fault circuit interrupters	ANSI Z90.1	Safety standard for man lifts
UL 508	Electric industrial control equipment	UL 961	Hobby and sports equipment	ANSI Z21.1	Household cooking gas appliances
UL 510	Insulating tape	UL 969	Marking and labeling systems	ANSI Z21.5	Gas clothes dryers
UL 514A	Metallic outlet boxes, electrical	UL 982	Motor-operated household food preparing machines	ANSI Z21.10	Gas water heaters
UL 514B	Fittings for conduit and outlet boxes	UL 984	Hermetic refrigerant motor-compressors	ANSI Z21.11	Gas-fired room heaters
UL 514C	Nonmetallic outlet boxes, flush-device boxes and covers	UL 985	Household fire warning system units	ANSI Z21.12	Draft hoods
UL 519	Impedance-Protected Motors	UL 987	Stationary and fixed electric tools	ANSI Z21.13	Gas-fired low-pressure steam and hot water heating boilers
UL 541	Refrigerated vending machines	UL 998	Humidifiers	ANSI Z21.15	Manually operated gas valves
UL 542	Lampholders, starters, and starter holders for fluorescent lamps	UL 1004	Electric motors	ANSI Z21.17	Domestic gas conversion burners
UL 544	Electric medical and dental equipment	UL 1005	Electric flatirons	ANSI Z21.18	Gas appliance pressure regulators
UL 547	Thermal protectors for electric motors	UL 1008	Automatic transfer switches	ANSI Z21.20	Automatic gas ignition systems and components
UL 559	Heat pumps	UL 1012	Power supplies	ANSI Z21.21	Automatic valves for gas appliances
UL 560	Electric home-laundry equipment	UL 1017	Electric vacuum cleaner machines and blower cleaners	ANSI Z21.23	Gas appliance thermostats
UL 563	Ice makers	UL 1020	Thermal cutoffs for use in electrical appliances and components	ANSI Z21.35	Gas filter appliances
UL 574	Electric oil heaters	UL 1023	Household burglar-alarm system units	ANSI Z21.40.1	Gas-fired absorption summer air conditioning appliances
UL 609	Local burglar-alarm units and systems	UL 1025	Electric air heaters	ANSI Z21.44	Gas-fired gravity and fan type direct vent wall furnaces
UL 621	Ice cream makers	UL 1026	Household electric cooking and food-serving appliances	ANSI Z21.47	Gas-fired central furnaces
UL 639	Intrusion-detection units	UL 1029	High-intensity-discharge lamp ballasts	ANSI Z21.48	Gas-fired gravity and fan type vented wall furnaces
UL 696	Electric toys	UL 1030	Sheathed heating elements	ANSI Z21.49	Gas-type gravity and fan type vented wall furnaces
UL 697	Toy transformers	UL 1042	Electric baseboard heating equipment	ANSI Z21.56	Gas-fired pool heaters
UL 705	Power ventilators	UL 1054	Special-use switches	ANSI Z21.64	Direct vent central furnaces
UL 726	Oil-fired boiler assemblies	UL 1059	Electrical terminal blocks	ANSI Z83.4	Direct gas-fired make-up air heaters
UL 727	Oil-fired central furnaces	UL 1077	Supplementary protectors for use in electrical equipment	ANSI Z83.8	Gas unit heaters
UL 731	Oil-fired unit heaters	UL 1081	Electric swimming pool pumps, filters, and chlorinators	ANSI Z83.9	Gas-fired duct furnaces
UL 732	Oil-fired water heaters	UL 1082	Household electric coffee makers and brewing-type appliances	ANSI Z83.10	Separated combustion system central furnaces
UL 733	Oil-fired air heaters and direct-fired heaters	UL 1083	Household electric skillets and frying-type appliances	ANSI Z83.11	Gas food service equipment—ranges and unit broilers
UL 746A	Polymeric materials—short term property evaluations	UL 1086	Household trash compactors	ANSI Z83.12	Gas food service equipment—baking and roasting ovens
UL 746B	Polymeric materials—long term property evaluations	UL 1096	Electric central air-heating equipment	ANSI Z83.13	Gas food service equipment—deep fat fryers
UL 746C	Polymeric materials—use in electrical equipment evaluations	UL 1097	Double insulation systems for use in electrical equipment	ANSI Z83.14	Gas food service equipment—counter appliances
UL 746D	Polymeric materials—fabricated parts	UL 1236	Electric battery chargers	ANSI Z83.15	Gas food service equipment—kettles, steam cookers, and steam generators
UL 746E	Polymeric materials—industrial laminates, filament wound tubing, vulcanized fibre, and materials used in printed wiring boards	UL 1244	Electrical and electronic measuring and testing equipment	ANSI Z83.16	Gas-fired unvented commercial and industrial heaters
UL 749	Household electric dishwashers	UL 1261	Electric water heaters for pools and tubs		
UL 751	Vending machines	UL 1262	Laboratory equipment		
UL 763	Motor-operated commercial food preparing machines	UL 1270	Radio receivers, audio systems, and accessories		
UL 771	Night depositories	UL 1410	Television receivers and high-voltage video products		
UL 775	Graphic arts equipment	UL 1411	Transformers and motor transformers for use in audio-, radio-, and television-type appliances		
UL 778	Motor-operated water pumps	UL 1414	Across-the-line, antenna-coupling, and line-by-pass capacitors for radio- and television-type appliances		
UL 795	Commercial-industrial gas-heating equipment	UL 1433	Control centers for changing message type electric signs		
UL 796	Electrical printed-wiring boards				
UL 813	Commercial audio equipment				
UL 817	Cord sets and power-supply cords				
UL 834	Heating, water supply, and power boilers—electric				
UL 845	Electric motor control centers				
UL 854	Service-entrance cables				
UL 858	Household electric ranges				

ETL, in its application, makes the following statement of independence with reference to services performed:

a. There are no managerial affiliations with any producer, supplier or vendor.

b. There are no securities investments in the product line.

c. There are no stock options in the product line.



d. The employment security of personnel is free from influence by any producer, supplier or vendor.

e. The laboratory is not owned, operated or controlled by any producer, supplier or vendor.

#### Preliminary Finding

In its initial application and its further correspondence, ETL addressed all of the criteria which had to be met for recognition as an NRTL. For example, the applicant submitted a statement concerning its independence as a testing laboratory; a summary of its safety testing, labeling, listing, and follow-up service; copies of its calibration department computer printouts of equipment and calibration, by location; the Corporation's quality control systems manual; and a copy of an actual test report.

The onsite surveys of the ETL testing facilities enabled the investigators to assess the practical application of these criteria. The survey reports identified attributes that indicated the capability within each facility to perform product safety testing according to nationally recognized standards, as well as areas where improvement in procedures, practices, or policies would enhance each facility's capabilities. These reports also included actions taken in response to the recommendation of each survey team.

Nine major areas were examined in depth in carrying out the laboratory surveys: facility; test equipment; calibration program; test and evaluation procedures; test reports; records; quality assurance program; follow-up listing program; and personnel. Several deficiencies were noted by the teams at the several facilities, and corrective action requested of the applicant. The first deficiency noted, related to records, was applicable at all three facilities. The teams found that while project files were adequately stored in file cabinets protected by fire sprinkler systems, there were no means of ascertaining the completeness of a file if the records were lost or stolen. The applicant responded to the effect that it had since included a checklist with its order files so that each piece of documentation required by a project evaluation could be recorded as having been placed into the order file.

The second issue, also applicable at all of the facilities, related to the formal appeals procedure for arbitrating disagreements concerning the evaluation and test of products to a standard. The procedure was limited to disagreements between the client and the laboratory. The corrective action taken by ETL would also include

procedures for handling inquiries or complaints from the general public and from inspection authorities. Finally, although entry to one facility was monitored during working hours by laboratory personnel occupying the area (the entrance has an automatic bell), no visitor log was maintained. The facility has since added a sign-in register as a record of visitors to the laboratory.

With the above noted corrections taken by ETL, the survey teams were satisfied that all three testing facilities appeared to meet the necessary criteria required by the standard, and so noted in their reports.

After a review of the application file and the onsite survey reports of ETL's three testing facilities, the NRTL Recognition Program staff concluded that the applicant appeared to have met the requirements for recognition as a Nationally Recognized Testing Laboratory and, therefore, preliminarily recommended to the Assistant Secretary that the application be approved.

Based on a review of the completed application file and the recommendations of the staff, the Assistant Secretary has made a preliminary finding that ETL Testing Laboratories, Inc., can meet the requirements for recognition as required by 29 CFR 1910.7.

All interested members of the public are invited to supply detailed reasons and evidence supporting or challenging the sufficiency of the applicant's having met the requirements for a Nationally Recognized Testing Laboratory, as well as Appendix A, of 29 CFR 1910.7. Submission of pertinent written documents and exhibits shall be made no later than May 1, 1989, and must be addressed to the NRTL Recognition Program, Office of Variance Determination, Room N3663, Occupational Safety and Health Administration, U.S. Department of Labor, Third Street and Constitution Avenue, NW., Washington DC 20210. Copies of the ETL application, the laboratory survey report, and all submitted comments, as received (Docket No. NRTL-1-89), are available for inspection and duplication at the Docket Office, Room N2634, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address.

The Assistant Secretary's final decision on whether the applicant satisfies the requirements for recognition as an NRTL will be made on the basis of the entire record including the public submissions and any further proceedings that the Assistant Secretary may consider appropriate in accordance with Appendix A of 1910.7.

Signed at Washington, DC this 21st day of February, 1989.

John A. Pendergrass,  
Assistant Secretary.

[FR Doc. 89-4529 Filed 2-27-89; 8:45 am]

BILLING CODE 4510-26-M

## MONITORED RETRIEVABLE STORAGE REVIEW COMMISSION

### Meeting

The Monitored Retrievable Storage (MRS) Review Commission, pursuant to its authority under Subtitle A of Pub. L. 100-203, the Nuclear Waste Policy Amendments Act of 1987, will hold a meeting on March 16, 1989 from 1:30 p.m. to 4:30 p.m. in the Warfield Room at the Carlyle Suites Hotel, 1731 New Hampshire Avenue NW., Washington, DC 20009. The purpose of the meeting will be to obtain the preliminary results of the Department of Energy's Systems Studies on MRS alternatives.

Members of the public are permitted to attend the meeting only as observers. The meeting will be transcribed and the transcripts will be placed in the Commission's Public Document Room.

Persons planning to attend, or who need further information, should contact Ms. Paula N. Alford, Director, External Affairs, by Monday, March 13, 1989 at the Monitored Retrievable Storage Review Commission, 1825 K Street NW., Suite 318, Washington, DC 20006, 202/653-5361.

Jane A. Axelrad,  
Executive Director and General Counsel.  
February 23, 1989.

[FR Doc. 89-4634 Filed 2-27-89; 8:45 am]

BILLING CODE 6820-BE-M

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### Ad Hoc Research Advisory Group; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the ad hoc Research Advisory Group of the National Endowment for the Arts will be held on March 22, 1989, from 9:00 a.m.-5:00 p.m. in Room M-09 at the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

This meeting will be open to the public on a space available basis. The topics for discussion will be research issues and priorities in arts data collection from a national perspective.



If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

February 22, 1989.

Yvonne M. Sabine,

*Director, Council and Panel Operations,  
National Endowment for the Arts.*

[FR Doc. 89-4583 Filed 2-27-89; 8:45 am]

BILLING CODE 7537-01-M

#### Expansion Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Expansion Arts Advisory Panel (Multidisciplinary Arts Section) to the National Council on the Arts will be held on March 20-22, 1989 from 9:00 a.m.-6:00 p.m. and March 23, 1989 from 9:00 a.m.-5:30 p.m. in Room 714 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on March 20, 1989 from 9:00 a.m.-10:00 a.m., and March 23, 1989 from 2:30 p.m.-5:30 p.m. The topics for discussion will be guidelines and policy issues.

The remaining sessions of this meeting on March 20, 1989 from 10:00 a.m.-6:00 p.m., March 21-22, 1989 from 9:00 a.m.-6:00 p.m., and March 23, 1989 from 9:00 a.m.-2:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c)(4), (6), and (9)(B) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington

DC 20506, 202/682-5532, TTY 202/682-5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682-5433.

February 22, 1989.

Yvonne M. Sabine,

*Director, Council and Panel Operations,  
National Endowment for the Arts.*

[FR Doc. 89-4582 Filed 2-27-89; 8:45 am]

BILLING CODE 7537-01-M

#### Media Arts Advisory Board; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Media Arts Advisory Panel (Radio Projects Section) to the National Council on the Arts will be held on April 11-12, 1989 from 9:15 a.m.-7:30 p.m., and April 13, 1989 from 9:10 a.m.-5:30 p.m. in Room 714 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6), and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682-5433.

February 22, 1989.

Yvonne M. Sabine,

*Director, Council and Panel Operations,  
National Endowment for the Arts.*

[FR Doc. 89-4581 Filed 2-27-89; 8:45 am]

BILLING CODE 7537-01-M

#### NUCLEAR REGULATORY COMMISSION

##### Issuance of Construction Permit for the Alchemie Facility-2 Oliver Springs; All Chemical Isotope Enrichment, Inc.

Notice is hereby given that pursuant to the Initial Decision of the Atomic

Safety and Licensing Board, dated February 1, 1989, the U.S. Nuclear Regulatory Commission (the Commission) has issued Construction Permit No. CPEP-2, dated February 10, 1989, to the All Chemical Isotope Enrichment, Inc. (A1ChemIE) for the construction of Alchemie Facility-2 Oliver Springs located in the Andy Justice Industrial Part in Oliver Springs, Tennessee. A1ChemIE intends to use the facility to enrich stable isotopes. In order to enrich stable isotopes, A1ChemIE is purchasing centrifuge machines from the U.S. Department of Energy (DOE). The centrifuge machines were originally designed and manufactured to enrich uranium, but A1ChemIE will not use them for that purpose.

The Initial Decision is subject to review by an Atomic Safety and Licensing Appeal Board prior to its becoming final. Any decision or action taken by an Atomic Safety and Licensing Appeal Board in connection with the Initial Decision may be reviewed by the Commission.

The Commission's Office of Nuclear Material Safety and Safeguards (NMSS) has completed its environmental, safeguards, and safety reviews in support of the issuance of this construction permit. The Commission has made the appropriate findings as required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations in 10 CFR Chapter 1, which are set forth in the construction permit. The application for the construction permit complies with the standards and requirements of the Act and the Commission's regulations. The Commission authorized issuance of this construction permit pursuant to § 2.764(a) of 10 CFR Part 2.

Following receipt of the application dated November 17, 1987, a Notice of Receipt of Application for Construction Permit, Availability of Applicant's Environmental Report, Consideration of Issuance of Construction Permit, and Notice of Opportunity for Hearing was published in the Federal Register on April 28, 1988 (53 FR 15315). The "Environmental Assessment Related to the Construction of A1ChemIE Facility-2, Oliver Springs," and Finding of No Significant Impact, All Chemical Isotope Enrichment, Inc. (dated September 8, 1988) were issued and noticed in the Federal Register (53 FR 38805, October 3, 1988) in accordance with 10 CFR Part 51. The Staff's "Safety Evaluation Report Related to the Application for Construction Permit of the A1ChemIE Facility-2 Oliver Springs" was completed in October 1988, and



"Supplement No. 1 to the Safety Evaluation Report Related to the Application for Construction Permit of the A1ChemIE Facility-2, Oliver Springs" was completed in December 1988.

The Initial Decision, dated February 1, 1989, Construction Permit No. CPEP-2, dated February 10, 1989, the report of the Advisory Committee on Reactor Safeguards, dated October 13, 1988, and the above mentioned Safety Evaluation Report and Supplement 1, the Environmental Assessment, and the November 17, 1987 application related to this action are available for public inspection and copying at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC. Copies of the Safety Evaluation Report and Supplement 1, and the Environmental Assessment may be obtained by calling (301) 492-3358 or by writing to the Fuel Cycle Safety Branch, Division of Industrial and Medical Nuclear Safety, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Dated at Rockville, Maryland, this 22nd day of February 1989.

For the Nuclear Regulatory Commission  
Leland C. Rouse,  
Chief, Fuel Cycle Safety Branch, Division of Industrial and Medical Nuclear Safety, NMSS.

[FR Doc. 89-4602 Filed 2-27-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-603]

**Notice of Issuance of Construction Permit for the Alchemie Facility—1 CPDF; All Chemical Isotope Enrichment, Inc.**

Notice is hereby given that pursuant to the Initial Decision of the Atomic Safety and Licensing Board, dated February 1, 1989, the U.S. Nuclear Regulatory Commission (the Commission) has issued Construction Permit No. CPEP-1, dated February 10, 1989, to the All Chemical Isotope Enrichment, Inc. (A1ChemIE) for modification of the Centrifuge Plant Demonstration Facility (CPDF), which it is leasing from the U.S. Department of Energy (DOE), and which is located on the federally owned Oak Ridge Gaseous Diffusion Plant site in Oak Ridge, Tennessee. A1ChemIE intends to use the facility to enrich stable isotopes. In order to enrich stable isotopes, A1ChemIE is purchasing centrifuge machines from DOE. The centrifuge machines were originally designed and manufactured to enrich uranium, but A1ChemIE will not use them for that purpose.

The Initial Decision is subject to review by an Atomic Safety and Licensing Appeal Board prior to its becoming final. Any decision or action taken by an Atomic Safety and Licensing Appeal Board in connection with the Initial Decision may be reviewed by the Commission.

The Commission's Office of Nuclear Material Safety and Safeguards (NMSS) has completed its environmental, safeguards, and safety reviews in support of the issuance of this construction permit. The Commission has made the appropriate findings as required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations in 10 CFR Chapter 1, which are set forth in the construction permit. The application for the construction permit complies with the standards and requirements of the Act and the Commission's regulations. The Commission authorized issuance of this construction permit pursuant to § 2.764(a) of 10 CFR Part 2.

Following receipt of the application dated November 17, 1987, a Notice of Receipt of Application for Construction Permit, Receipt of Application for Facility Operating License, Availability of Applicant's Environmental Report, Consideration of Issuance of Construction Permit and Facility Operating License and Notice of Opportunity for Hearing was published in the Federal Register on April 28, 1988 (53 FR 15317). The "Environmental Assessment Related to the Construction and Operation of A1ChemIE Facility-1, CPDF," and Finding of No Significant Impact, All Chemical Isotope Enrichment, Inc. (dated September 8, 1988) were issued and noticed in the Federal Register (53 FR 38807, October 3, 1988) in accordance with 10 CFR Part 51. The Staff's "Safety Evaluation Report Related to the Construction Modification and Licensing of the A1ChemIE Facility-1 CPDF" was completed in October 1988, and "Supplement No. 1 to the Safety Evaluation Report Related to the Application for Construction Modification and Licensing of the A1ChemIE Facility-1 CPDF" was completed in December 1988.

The Initial Decision, dated February 1, 1989, Construction Permit No. CPEP-1 dated February 10, 1989, the report of the Advisory Committee on Reactor Safeguards, dated October 13, 1988, and the abovementioned Safety Evaluation Report and Supplement 1, the Environmental Assessment, and the November 17, 1987 application related to this action are available for public inspection and copying at the Commission's Public Document Room,

2120 L Street NW., Washington, DC. Copies of the Safety Evaluation Report and Supplement 1, and the Environmental Assessment may be obtained by calling (301) 492-3358 or by writing to the Fuel Cycle Safety Branch, Division of Industrial and Medical Nuclear Safety, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Dated at Rockville, Maryland, this 22nd day of February 1989.

For the Nuclear Regulatory Commission.  
Leland C. Rouse,  
Chief, Fuel Cycle Safety Branch, Division of Industrial and Medical Nuclear Safety, NMSS.

[FR Doc. 89-4603 Filed 2-27-89; 8:45 am]

BILLING CODE 7590-01-M

**Advisory Committee on Reactor Safeguards Subcommittee on Materials and Metallurgy; Open Meeting**

The ACRS Subcommittee on Materials and Metallurgy will hold a meeting on March 15-16, 1989, in Conference Room G at the Battelle Columbus Division, 505 King Avenue, Columbus, OH.

The entire meeting will be open to public attendance.

The agenda for the subject meeting will be as follows: Wednesday, March 15, 1989—8:30 a.m. until the conclusion of business; Thursday, March 16, 1989—8:30 a.m. until the conclusion of business.

The Subcommittee will review the degraded piping program, including NDE, aging of centrifugally cast stainless steel piping material, and other related matters.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions



with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS Staff member, Mr. Elpidio Igne (telephone 301/492-8192) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Date: February 22, 1989.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 89-4604 Filed 2-27-89; 8:45 am]

BILLING CODE 7590-01-M

## OFFICE OF PERSONNEL MANAGEMENT

### Federal Prevailing Rate Advisory Committee; Open Meeting

According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on—

Wednesday, March 1, 1989  
Wednesday, March 15, 1989  
Wednesday, March 22, 1989  
Wednesday, April 5, 1989  
Wednesday, April 12, 1989  
Wednesday, April 26, 1989

These meetings will start at 10 a.m. and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street, NW., Washington, DC.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives from five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives from five Federal agencies. Entitlement to membership of the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the Prevailing Rate System and other matters pertinent to establishing prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management.

These scheduled meetings will start in open session with both labor and management representatives attending.

During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would unacceptably impair the ability of the Committee to reach a consensus on the matters being considered and would disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public because of a determination made by the Director of the Office of Personnel Management under the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations, and related activities. These reports are available to the public, upon written request to the Committee's Secretary.

The public is invited to submit material in writing to the Chairman on Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information on these meetings may be obtained by contacting the Committee's Secretary, Office of Personnel Management, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street NW., Washington, DC 20415 (202) 632-9710.

Thomas E. Anfinson,

Chairman, Federal Prevailing Rate Advisory Committee.

February 17, 1989.

[FR Doc. 89-4615 Filed 2-27-89; 8:45 am]

BILLING CODE 9325-01M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-26565; File No. SR-GSCC-88-4]

### Self-Regulatory Organizations; Government Securities Clearing Corporation; Order Approving Proposed Rule Change Establishing Binding Effect of Comparisons

On December 22, 1988, the Government Securities Clearing Corporation ("GSCC") filed a proposed rule change (File No. SR-GSCC-88-4) under section 19(b) of the Securities

Exchange Act of 1934 ("Act").<sup>1</sup> The proposal would establish the binding effect of comparisons issued by GSCC to GSCC members ("members") for compared trades. On January 17, 1989, the Commission published notice of the proposed rule change in the *Federal Register* to solicit comments from interested persons.<sup>2</sup> One comment was received.<sup>3</sup> As discussed below, the Commission is approving this proposal.

### I. Description

The proposed rule change will amend GSCC rule 7 to provide that reports of trade comparisons generated by GSCC on its comparison list will constitute the sole comparison for all trades for which members have submitted trade data and which GSCC has compared. The proposal states that GSCC's comparison reports evidence a valid, binding contract between the parties to a trade and that any other confirmation or comparison report will not be binding.<sup>4</sup>

Although brokers and dealers have submitted trade data<sup>5</sup> to GSCC for comparison since August 1988, members have continued to send confirmations to the other party to the trade because they believe that GSCC's comparison reports are not legally binding. Under the proposal, trades listed as compared on the reports will constitute valid, binding and enforceable contracts between members who have made such trades.<sup>6</sup> Thus, members can issue instructions based on the comparison reports (and no longer must confirm compared trades listed on the report) to their banks for settlement.

### II. GSCC's Rationale

GSCC states that the proposed rule change will promote the prompt and accurate clearance and settlement of securities transactions for which GSCC is responsible and is, therefore, consistent with the requirements of the

<sup>1</sup> 15 U.S.C. 78(b)(1).

<sup>2</sup> See Securities Exchange Act Release No. 26437 (January 10, 1989) 54 FR 1831.

<sup>3</sup> See letter from Herb Whalen, Vice President, Operations, Goldman Sachs, to David F. Hoyt, Vice President, Operations Division, GSCC, dated February 9, 1989, supporting the proposal.

<sup>4</sup> Each member participating in GSCC must sign a membership agreement, whereby the member agrees to be bound by GSCC's rules and procedures and any amendments to those rules and procedures. In this case, that means that each member agrees that GSCC's comparison report evidences an enforceable contract between members.

<sup>5</sup> Such data includes quantity, security identification, party and contra-party, trade value and other identifying detail as GSCC may require or permit.

<sup>6</sup> The reports also list uncompleted and advisory trades which members can then resolve or delete.



Act and the rules and regulations thereunder applicable to GSCC.

### III. Discussion

As discussed in Securities Exchange Act Release No. 25740,<sup>7</sup> GSCC provides a centralized comparison service for members executing trades in U.S. Treasury and Agency securities. Although GSCC has operated its automated comparison system since August 1988, many members continue to duplicate that process by sending confirmations to each other because they were concerned that GSCC-generated comparisons did not constitute a binding contract. The proposal, however, will eliminate the need to send confirmations to the other party by binding members to compared trades which appear on GSCC's trade comparison reports. The data contained in GSCC's comparison reports are similar to that contained in confirmations sent between parties to a transaction. That information includes trade data, party, contra-party, quantity, price, settlement amount and security identification.<sup>8</sup> The Commission believes that elimination of the confirmation process and the reliance on GSCC's comparison report as a legal and binding contract improves the efficiency and reduces the cost of settlement of government securities transactions.

GSCC derives its authority to establish the binding effect of its comparison reports, in part, from contractual agreements with its participants. Members, by signing the participants agreement, agree to be bound by the clearing agency's rules and procedures (and any amendments to those rules and procedures), and to incorporate those rules into trades submitted to GSCC for processing. GSCC's membership agreements, in this respect, are similar to other registered clearing agencies.<sup>9</sup>

The proposal brings the advantages of two-sided trade input matching to the government securities market. With two-sided trade comparison, each party to a transaction submits trade data for

comparison and to the extent that the information matches, a binding contract is formed. Parties are informed of trades that do not compare ("uncompared trades") and trades submitted by the contra-party that do not match ("advisory trades") and may then resolve the data to form compared trades. Two-sided trade comparison is an improvement over the manual confirmation process because it results in less uncompared trades, provides an efficient system for the resolution of uncompared and advisory trades, and exposes each side of the trade to less risk.<sup>10</sup>

The Commission believes, for the reasons stated above, that the proposal promotes the prompt and accurate clearance and settlement of securities transactions in furtherance of Section 17A of the Act. The Commission, therefore, believes that the proposal should be approved.

### IV. Conclusion

For the reasons discussed above, the Commission finds that the proposed rule change is consistent with the Act and, in particular, Section 17A.

It is therefore, ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR-GSCC-88-4) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,  
Secretary.

Dated: February 22, 1989.

[FR Doc. 89-4629 Filed 2-27-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-26561; File No. SR-PSE-17]

### Self-Regulatory Organizations; Accelerated Approval of Proposed Rule Change By the Pacific Stock Exchange, Inc.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 27, 1988, the Pacific Stock Exchange Incorporated ("PSE" or the "Exchange") filed with the Securities and Exchange Commission the proposed rule change as described in Item I, II and III below, which items have been prepared by the self-regulatory organization.<sup>1</sup> The Commission is

publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Pacific Stock Exchange Incorporated ("PSE" or the "Exchange"), proposes to amend Rule XX, Section 2 to require that members and member organizations submit materials requested by the Exchange in the course of its investigations within a time period required by the Exchange, and that customer and proprietary trading data be submitted in an automated format. Late submissions and those not in the proper format would be subject to formal disciplinary action. (Italics indicates new language.)

### Rule XX—Investigations

Sec. 2(a). The Exchange shall investigate possible violations within the disciplinary jurisdiction of the Exchange upon order of the Board of Governors, the Executive Committee, the Ethics and Business Conduct Committee, or the Floor Trading Committees or upon receipt of a complaint alleging such violations filed by a member or by any other person. All such complaints should specify in reasonable detail the facts constituting the violation, including the specific statutes, Exchange Constitutional provisions, Rules, commentaries, resolutions, policies or procedures allegedly violated. A member or person associated with a member is entitled to be represented by counsel during any Exchange investigation.

(b). No member or person associated with a member shall impede or delay an Exchange investigation with respect to possible violations within the disciplinary jurisdiction of the Exchange nor refuse to furnish testimony, documentary materials or other information requested by the Exchange during the course of its investigation. Failure to furnish such testimony, documentary materials or other information requested by the Exchange pursuant to this Rule on the date or within the time period required by the Exchange shall be considered obstructive of an Exchange inquiry or investigation and subject to formal disciplinary action.

(c). A member or member organization shall submit such trade data elements specified in Commentary .01 below in such automated format as may be prescribed by the Exchange from time to time, in regard to such transaction or transactions as may be the subject of a particular request for information made by the Exchange. Failure to submit such data in the required format shall be considered obstructive of an Exchange inquiry or investigation and subject to formal disciplinary action.

### Commentary:

.01

(A) If the transaction was a proprietary transaction effected or caused to be effected by the member or member organization for

<sup>7</sup> 53 FR 19639 (May 31, 1988) ("GSCC Registration Order").

<sup>8</sup> Exchange Act Rule 10b-10 requires a broker or dealer, at or prior to the completion of a transaction for or with the account of a customer, to give or send such customer written notification disclosing certain information about the transaction, such as date and time of the transaction and the identity, price and quantity of securities bought or sold by the customer. The Commission believes that the proposal will not affect members' abilities to meet the obligations of Rule 10b-10.

<sup>9</sup> See, e.g., National Securities Clearing Corporations ("NSCC") Participant Agreement and NSCC Rule 7.

<sup>10</sup> For a discussion of GSCC's comparison system and its potential benefits, see Securities Exchange Act Release No. 25740 (May 24, 1988) 53 FR 19639.

<sup>1</sup> The PSE submitted an amendment to the filing on February 7, 1989.



any account in which such member or member organization, or any member, allied member, approved person, partner, officer, director, or employee thereof, is directly or indirectly interested, such member or member organization shall submit or cause to be submitted the following information:

- (i) Clearing house number, or alpha symbol, as used by the member or the member organization submitting the data;
- (ii) Clearing house number(s), or alpha symbol(s) as may be used from time to time, of the member(s) or member organization(s) on the opposite side of the transaction;
- (iii) Identifying symbol assigned to the security;
- (iv) Date transaction was executed;
- (v) Number of shares, or quantity of bonds or option contracts for each specific transaction and whether each transaction was a purchase, sale, short sale and, if an option contract, whether open long or short or close long or short;
- (vi) Transaction price;
- (vii) Account number; and
- (viii) Market center where transaction was executed.

(B) If the transaction was effected or caused to be effected by the member or member organization for any customer account, such member organization shall submit or cause to be submitted the following information:

- (i) Data elements (i) through (viii) as contained in paragraph (A) above; and
  - (ii) Customer name, address(es), branch office number, registered representative number, whether order was solicited or unsolicited, date account opened and employer name and the tax identification number(s).
- (iii) If transaction was effected for a member broker-dealer customer, whether the broker-dealer was acting as principal or agent on the transaction or transactions that are the subject of the Exchange's request.

(C) In addition to the above trade data elements, a member or member organization shall submit such other information in such automated format as may be prescribed by the Exchange, as may from time to time be required.

(D) The Exchange may grant exceptions, in such cases and for such time periods as it deems appropriate, from the requirement that the data elements prescribed in paragraphs (A) and (B) above be submitted to the Exchange in an automated format.

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

### (A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

The Exchange is proposing to require that its members and persons associated with members submit testimony, documentary evidence or other information in the course of Exchange investigations and inquiries within a time period required by the Exchange. Late submission would be subject to formal disciplinary action.

The amendment would improve the Exchange's ability to investigate violations within its disciplinary jurisdiction and promptly dispose of pending matters. Investigations concerning insider trading and front running would be particularly enhanced by timely submissions of information by member firms.

Additionally, the Exchange is proposing to require its members and member organizations to submit customer and proprietary trading data as requested by the Exchange in the course of its investigations and inquiries<sup>2</sup> in the universal automated format that was developed by the Intermarket Surveillance Group at the request of the Commission. Submissions of trading data not received in the required format would also be subject to formal disciplinary action.

The Exchange anticipates that implementation of the automated format will significantly enhance its regulatory and surveillance capabilities. The computerized format will enable surveillance analysts to sort the data alphabetically, geographically, chronologically, by size, by price, or in any other manner desired. Information from several members could also be analyzed simultaneously to uncover violative conduct occurring amongst firms.

This requirement should not impose a significant additional regulatory burden on members. Submission of the trading data in the automated format may expedite member firm responses to information requests since they will no longer need to produce potentially voluminous "hard copy" records. While some firms may have to make initial changes to comply with the rule, ultimately they will be able to make a more cost-effective use of their resources by eliminating an otherwise time-consuming, labor-intensive task. In

<sup>2</sup> Data requested in connection with market surveillance inquiries is commonly referred to as "blue sheet information". This term is derived from the blue SEC form, which was used by broker-dealers to respond to SEC requests for trading data prior to the widespread use of computers.

addition, since most member organizations have developed these automated capabilities in order to comply with similar rules already in place at the NYSE and the AMEX, compliance with the PSE requirement would not be an additional burden. However, in recognition of the burden that may be imposed on smaller member organizations, paragraph (D) of Commentary .01 of the proposed rule change authorizes the Exchange to grant exceptions on a case-by-case basis to the automated reporting requirement, where appropriate.

The proposed rule change is consistent with Section 6 of the Securities and Exchange Act of 1934 ("the Act") and, in particular, furthers the objectives of section 6(b)1 as it strengthens the Exchange's ability to enforce compliance by its members and persons associated with its members with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange. The proposed rule change is consistent with section 6(b)5 in that it will improve the Exchange's regulatory and surveillance capabilities, enabling it to provide increased investor protection, assist in the prevention of fraudulent and manipulative acts and practices, and promote just and equitable principles of trade.

### (B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes a burden on competition.

### (C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others.

Written comments on the proposed rule change were neither solicited nor received.

## III. Data of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has requested accelerated effectiveness of this proposed rule change pursuant to section 19(b)(2) of the Act. In this regard, the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of the proposal in the Federal Register. Part of the proposed rule change is virtually identical to proposals, approved by the Commission, that were submitted by the Amex, NYSE and CBOE that require member firms to submit certain customer and proprietary trading information in our automated



format.<sup>3</sup> The other part of the proposed rule subjects members and member organizations to disciplinary action if they do not provide data in a timely manner in response to an Exchange investigation. Parties not complying with an Exchange request for material will be entitled to the same safeguards provided in any Exchange disciplinary hearing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of section 6 and the rules and regulations thereunder.<sup>4</sup>

The Commission believes that timely responses by members to Exchange investigative requests will assist the Exchange in expeditiously investigating and disposing of matters within its jurisdiction. The ability of the Exchange to subject members, who do not provide such requested material, to disciplinary procedures will assist the Exchange in effectively fulfilling its self-regulatory responsibilities.

The Commission believes that adoption of the universal automated format for bluesheet information under the proposed rule will improve significantly the ability of PSE's regulatory and surveillance staff to conduct their market surveillance and monitoring responsibilities under section 6(b)(1), 6(b)(2) and other provisions of the Act. Receipt of market surveillance information in an automated format will permit the Exchange's surveillance staff to review and analyze the data more rapidly and effectively by enabling them to directly enter the data into the Exchange's own computer system for analysis. Additionally, in instances where the Exchange refers matters to the Commission for further action, availability of the pertinent bluesheet information in an automated format also will facilitate the Commission's ability to analyze and evaluate relevant trading and market surveillance data. Finally, the Commission believes that adoption of the automated format will make it easier for member firms complying with the proposal rules to gather and submit information in response to requests from the Exchanges in a timely manner and will thus reduce the regulatory burden on those firms.

<sup>3</sup> See Securities Exchange Act Release No. 25859 (June 27, 1988), 53 FR 25029, approving Files Nos. SR-Amex-88-04 and SR-NYSE-87-23 and Securities Exchange Act Release No. 25235 (November 1, 1988), 53 FR 44688, approving File No. SR-CBOE-18.

<sup>4</sup> 15 U.S.C. 78f (1982).

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned, self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by March 21, 1989.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,<sup>5</sup> that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

Dated: February 21, 1989.

Jonathan G. Katz,  
Secretary.

[FR Doc. 89-4628 Filed 2-27-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-16832 (812-6853)]

#### ML Venture Partners II, L.P., et al.; Application

February 22, 1989.

**AGENCY:** Securities and Exchange Commission ("SEC").

**ACTION:** Notice of Application for an order under the Investment Company Act of 1940 ("1940 Act").

**Applicants:** ML Venture Partners II, L.P. ("MLVP II"), Merrill Lynch Venture Capital Inc. ("Management Company"), ML Technology Ventures, L.P. ("ML Technology"), Merrill Lynch KECALP L.P. 1987 ("KECALP") and KECALP Inc. ("KECALP General Partner").

**Relevant 1940 Act Sections:** Order requested under (i) Sections 17(b) and 57(c) granting exemption from provisions of sections 17(a) and 57(a)(1),

<sup>5</sup> 15 U.S.C. 78e (b)(2) (1982).

<sup>6</sup> 17 CFR 200.30-3(a)(12) (1988).

and (ii) section 17(d) and Rule 17d-1 authorizing transactions otherwise prohibited under sections 17(d) and 57(a)(4).

**Summary of Application:** Applicants seek an order relating to (i) the acquisition of certain securities from an "affiliated person", as defined in the 1940 Act, and (ii) the joint acquisition of certain securities.

**Filing Dates:** The application was filed on August 27, 1987, and amended on October 26, 1988, and February 16, 1989.

**Hearing or Notification of Hearing:** If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 P.M., on March 20, 1989. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for attorneys, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

**ADDRESSES:** Secretary, SEC, 450 5th Street, Washington, DC 20549; MLVP II and the Management Company, 717 Fifth Avenue, New York, NY 10022; KECALP, the KECALP General Partner and ML Technology, World Financial Center, North Tower, New York, NY 10281.

**FOR FURTHER INFORMATION CONTACT:** Thomas Mira, Staff Attorney (202) 272-3047, or Brion R. Thompson, Branch Chief (202) 272-3016 (Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier at (800) 231-3282 (in Maryland (301) 258-4300).

#### Applicant's Representations

1. MLVP II, a limited partnership organized under Delaware law in 1986, is regulated as a business development company under the 1940 Act. The investment objective of MLVP II is to seek long-term capital appreciation by making venture capital investments. MLVP II has five general partners, consisting of four individuals ("Individual General Partners") and MLVP II Co., L.P. ("MLVP II Managing General Partner"). The MLVP II Individual General Partners include



three MLVP II Independent General Partners (defined to be individuals who are not "interested persons" of MLVP II within the meaning of the 1940 Act) (See Investment Company Act Rel. No. 15652, March 30, 1987) and one general partner who is an individual and who is an affiliated person of the MLVP II Managing General Partner. Only individuals may serve as MLVP II Individual General Partners. The MLVP II Managing General Partner is responsible for the venture capital investments of MLVP II. The MLVP II Managing General Partner is a limited partnership controlled by its general partner, the Management Company, which performs the management and administrative services necessary for the operation of MLVP II pursuant to a management agreement. The MLVP II Managing General Partner and the Management Company are both registered investment advisers under the Investment Advisers Act of 1940. The Management Company is an indirect subsidiary of Merrill Lynch & Co., Inc. ("ML & Co."), a holding company which, through its subsidiaries, provides investment, financing, real estate, insurance and related services.

2. KECALP, a limited partnership organized under the laws of Delaware, is a non-diversified, closed-end investment company of the management type under the 1940 Act. The investment objective of KECALP is to seek long-term capital appreciation. Under the terms of KECALP's offering, as set forth in its registration statement, units representing interests in KECALP were offered exclusively to employees of ML & Co. and its subsidiaries and to non-employee directors of ML & Co. In the case of employees of ML & Co. and its subsidiaries, such employees were permitted to purchase units of KECALP only if they received annualized compensation in 1986 equal to at least \$75,000. KECALP is an "employees' securities company", within the meaning of section 2(a)(13) of the 1940 Act, and operates in accordance with the terms of an exemptive order issued pursuant to section 6(b) of the 1940 Act. (See Investment Company Act Rel. No. 12363, April 8, 1982, "KECALP Exemptive Order"). The KECALP General Partner is a Delaware corporation and an indirect wholly-owned subsidiary of ML & Co. The KECALP General Partner is responsible for managing and making investment decisions for KECALP.

3. ML Technology, is organized as a limited partnership under Delaware state law and is not registered as an investment company. (See ML Research and Development Partners I, pub. avail.,

September 24, 1984). The investment objective of ML Technology is to seek cash flow from the commercialization of new technology through development and manufacturing agreements with companies conducting research and development for it or with other third parties, through licenses or sales of technology, and from returns on investments in portfolio limited partnerships or warrants to purchase common stock of companies that sponsor portfolio limited partnerships. ML R&D Co., L.P. ("ML Technology General Partner") is the general partner of ML Technology and is responsible for selecting, structuring and monitoring the research and development ventures. The ML Technology General Partner is a limited partnership, the general partner of which is Merrill Lynch R&D Management Inc., which performs the management and administrative services necessary for the operation of ML Technology. Merrill Lynch R&D Management Inc. is an indirect wholly-owned subsidiary of ML & Co.

4. BBN Switch, a wholly-owned subsidiary of Bolt Beranek and Newman, Inc. ("BBN"), is a Delaware limited partnership organized on June 11, 1987, pursuant to an Agreement of Limited Partnership among BBN Integrated Switch Development Corporation ("BBNDC"), as General Partner, Bruce D. Glabe, as Initial Limited Partner, ML Technology, the Management Company and the KECALP General Partner ("Partnership Agreement"). On June 11, 1987, Bruce D. Glabe withdrew from BBN Switch and received the return of his capital contribution. The general partner of BBN Switch, BBNDC, is a Delaware corporation and a wholly-owned subsidiary of BBN. BBN is a diversified high technology corporation organized in 1953 as the successor to a partnership formed in 1948. BBN Switch intends to develop, manufacture and market a new line of communications switching equipment.

5. The investment opportunity in limited partnership interests ("Interests") in BBN Switch was brought to the attention of the ML Technology General Partner in February, 1987. The investment opportunity was subsequently brought to the attention of MLVP II and KECALP by a member of the Board of Directors of the management company of ML Technology. The MLVP II Managing General Partner, the ML Technology General Partner and the KECALP General Partner conducted separate evaluations of the proposed investment in BBN Switch and independently

determined to approve investments in limited partnership interests in BBN Switch of \$5,022,380, \$4,500,000 and \$500,000 for MLVP II, ML Technology and KECALP, respectively. Thus, MLVP II would acquire a 50.01% Interest in BBN Switch, KECALP would acquire a 5% Interest and ML Technology would acquire a 44.99% Interest.

6. ML Technology made an initial capital contribution of \$484,917.66 and the remaining portion of its obligation will be made as payments are due under a Development Agreement entered into by BBN Switch and BBN Communications Corporation, a Massachusetts corporation and a wholly-owned subsidiary of BBN. The \$4,500,000 committed by ML Technology represents approximately 7% of its capitalization. On June 11, 1987, pursuant to a Partnership Purchase Option Agreement among BBN, BBN Switch, BBNDC, BBN Communications Corporation and the limited partners of BBN Switch ("Option Agreement"), each limited partner granted to BBN Communications Corporation an irrevocable option ("Purchase Option") to purchase its Interest in BBN Switch. The Option is exercisable only if all the options to purchase the Interests are to be exercised. As consideration for the grant to BBN Communications Corporation of the Purchase Option, BBN issued warrants ("BBN Warrants") to each limited partner that entitle the holder to purchase shares of BBN common stock ("BBN Warrants"). As consideration for the grant of the Purchase Option, ML Technology acquired 65,105 BBN Warrants. The BBN Warrants are exercisable at any time or from time to time on or after June 11, 1989, and before June 11, 1994. The exercise price is \$28.207 from June 10, 1989, until June 11, 1992, and \$30.707 thereafter, subject to adjustments for certain events, including stock dividends, stock splits and reorganizations.

7. The KECALP General Partner is an affiliated person of KECALP within the meaning of section 2(a)(3)(D) of the 1940 Act, and, the Management Company is an affiliated person of the MLVP II Managing General Partner, which is an affiliated person of MLVP II under section 2(a)(3)(D) of the 1940 Act. Moreover, KECALP, MLVP II and ML Technology may be deemed under common control of ML & Co. within the meaning of section 2(a)(3)(C) of the 1940 Act and, thus affiliated persons of each other. Accordingly, the investments by MLVP II, ML Technology and KECALP could not be made concurrently without the requested order. Accordingly, the



Management Company agreed to acquire a 50.01% Interest in BBN Switch on behalf of MLVP II and to sell such Interest to MLVP II at the price determined as described below following the granting of the requested order. On June 12, 1987, the Management Company made a \$516,793.34 initial capital contribution to BBN Switch. The balance of \$4,505,586.66 will be made as payments are due under the Development Agreement. The purchase price of the Interest in BBN Switch acquired by the Management Company represents less than 5% of the net assets of MLVP II. On June 11, 1987, the Management Company granted a Purchase Option to BBN Communications Corporations to purchase MLVP II's Interest in BBN Switch. As consideration for the grant of the Purchase Option, the Management Company acquired 72,659 BBN Warrants on behalf of MLVP II.

8. Similarly, on June 10, 1987, the KECALP General Partner agreed to acquire a 5% Interest in BBN Switch on behalf of KECALP and to sell such Interest to KECALP at the price determined as described below following the granting of the requested order. On June 12, 1987, the KECALP General Partner made a \$50,669.00 initial capital contribution to BBN Switch. The balance of \$448,330.00 will be made as payments are due under the Development Agreement. The purchase price of the 5% Interest in BBN Switch acquired by the KECALP General Partner represents less than 5% of the net assets of KECALP. On June 10, 1987, the KECALP General Partner granted a Purchase Option to BBN Communications Corporation to purchase its Interest in BBN Switch. As consideration for the grant of the Purchase Option, the KECALP General Partner acquired 7,236 BBN Warrants on behalf of KECALP.

9. Applicants state that the terms of the purchases by MLVP II, ML Technology and KECALP, including the terms of the Purchase Option, would be identical in all material respects. The purchase price to be paid by MLVP II and KECALP to the Management Company and the KECALP General Partner for their respective Interests in BBN Switch and accompanying BBN Warrants proposed to be acquired by MLVP II and KECALP will be the lower of (i) the value of the investment on the dates each of MLVP II and KECALP acquires their Interests in BBN Switch and BBN Warrants (as determined by the MLVP II Independent General Partners and the KECALP General Partner, respectively) or (ii) the cost to

the Management Company and the KECALP General Partner, respectively, of purchasing and holding the investment. With respect to clause (ii), such cost shall be the \$5,022,380 and \$500,000 capital contribution agreed to be made by the Management Company and the KECALP General Partner, respectively, plus carrying costs related to such investment as separately determined for each of MLVP II and KECALP.

10. MLVP II and KECALP will assume the obligations of the Management Company and the KECALP General Partner, respectively, under the Partnership Agreement to pay the outstanding balances. As discussed more fully in the application, MLVP II and KECALP shall pay the Management Company and the KECALP General Partner, respectively, for all capital contributions made to BBN Switch only to the extent that the value of the investment on the date of acquisition by MLVP II and KECALP exceeds the cost to the Management Company and the KECALP General Partner, respectively, of purchasing and holding the investment. KECALP will pay no carrying costs in respect of the period prior to June 12, 1987, the acquisition date of the purchase by the KECALP General Partner, which was subsequent to the authorization of the investment by the Board of Directors of the KECALP General Partner. Similarly, MLVP II will pay no carrying costs in respect of the period prior to June 12, 1987, the acquisition date of the purchase by the Management Company, which was subsequent to the authorization of the investment by the Independent General Partners of MLVP II. For purposes of these transactions, carrying costs consist of interest charges computed at the lower of (i) the prime commercial lending rate charged by Citibank, N.A. during the period for which carrying costs are being paid or (ii) the effective cost of borrowings by ML & Co. during such period. The effective cost of borrowings by ML & Co. is its actual "Average Cost of Funds," which it calculates on a monthly basis by dividing its consolidated financing expenses by the total amount of borrowings during the period.

#### Applicants' Legal Analysis

1. The order requested under sections 17(b) and 57(c) of the 1940 Act is justified by both the terms of the transaction and the fact that the proposed investment is not otherwise available to MLVP II and KECALP. With respect to the terms of the transaction, the KECALP General Partner (on behalf of KECALP) and the MLVP II Managing

General Partner (on behalf of MLVP II) have reviewed the proposed investment in detail. The members of the Board of Directors of the KECALP General Partner and the Independent General Partners of MLVP II, a majority of whom have extensive knowledge in financial and business matters, considered all information deemed relevant, including the nature of the investment, the nature of the investment by affiliates of ML & Co. in BBN Switch and the fairness of the purchase prices proposed to be paid by MLVP II and KECALP. The KECALP General Partner and the MLVP II Managing General Partner determined that the proposed investments by MLVP II and KECALP will not directly or indirectly benefit entities affiliated with ML & Co. At a meeting of the Board of Directors of the KECALP General Partner held on April 29, 1987, KECALP's investment in BBN Switch was approved after consideration of each of the factors set forth in section 17(b) of the 1940 Act. At a meeting of the Independent General Partners of MLVP II held on March 30, 1987, MLVP II's investment in BBN Switch was approved after consideration of each of the factors set forth in section 57(c) of the 1940 Act. MLVP II and KECALP have no contractual obligation to make the investment in BBN Switch and a determination will be made by the Independent General Partners of MLVP II and the Board of Directors of the KECALP General Partner following issuance of the requested order as to whether the investment continues to be appropriate for MLVP II and KECALP, respectively. Such determination will include a review of the factors, assumptions, estimates and projections necessary for the Independent General Partners of MLVP II and the Board of Directors of the KECALP General Partner to determine the fair value of the Interests in BBN Switch and the BBN Warrants.

2. In evaluating the terms of the transaction, the KECALP General partner and MLVP II's Independent General Partners considered the fact that the proposed purchase prices to be paid by MLVP II and KECALP will include carrying costs incurred by an affiliated person (i.e., the Management Company and the KECALP General Partner) if the value of the investment at the time of acquisition by MLVP II and KECALP, as applicable, is more than the purchase price plus the affiliate's carrying costs. In approving a purchase price which may include carrying costs, the Board of Directors of the KECALP General Partner considered that the KECALP General Partner receives no



compensation for serving as general partner of KECALP and that ML & Co. has incurred considerable expenses in organizing KECALP. KECALP and MLVP II believe that it is entirely appropriate for them to reimburse affiliates for carrying costs in a situation where an affiliate purchased an investment as, in effect, their nominee and KECALP and MLVP II would have purchased such investments directly if it had not been deemed necessary to obtain the requested order. In light of these factors, the MLVP II Managing General Partner and the KECALP General Partner believe it is wholly appropriate for the purchase price paid for a portfolio investment to reflect carrying costs provided that the value of the investment at the time of acquisition exceeds the amount of the purchase price plus carrying costs.

3. The KECALP General Partner believes that the proposed investment in BBN Switch is consistent with the rationale underlying the establishment of KECALP as an "employees' securities company". In the application for exemptive relief ultimately granted in the KECALP Exemptive Order, as well as in KECALP's prospectus, it was indicated that ML & Co. and its affiliates would be involved in structuring, identifying and investing in many of KECALP's portfolio investments. Similarly, the proposed transaction in BBN Switch is consistent with the investment objective of MLVP II and the kinds of transactions in which it was contemplated MLVP II would participate as a business development company.

4. With respect to the order requested pursuant to section 17(d) of the 1940 Act and Rule 17d-1 thereunder, the MLVP II Managing General Partner and the KECALP General Partner determined that the investment was consistent with MLVP II's and KECALP's investment objectives of seeking long-term capital appreciation. The MLVP II Managing General Partner, the ML Technology General Partner and the KECALP General Partner also determined that the investment in BBN Switch would not disadvantage either of MLVP II, ML Technology or KECALP in making such investment, maintaining its investment position or disposing of such position. It was recognized that the terms of the purchases by MLVP II, ML Technology and KECALP would be the same in terms of the price paid per percentage of limited partnership interest in BBN Switch. With respect to the different capital contributions to be made by MLVP II, ML Technology and KECALP, it was recognized that MLVP II, ML Technology and KECALP are each at

different points in their investment programs and have different amounts of assets available for investment. To the extent that the investments prove to be successful, MLVP II, ML Technology and KECALP will profit equally in proportion to their respective investments. Accordingly, the terms of the proposed investments are not unfair or less advantageous to MLVP II, ML Technology or to KECALP, but rather are the result of individual business considerations.

5. In both the KECALP Exemptive Order and KECALP's prospectus, it was indicated that affiliates of ML & Co. would be involved in identifying and investing in many of KECALP's portfolio investments. The prospectus of MLVP II indicated that MLVP II may be co-investors in portfolio companies with affiliates of management. Similarly, the prospectus of ML Technology indicated that ML Technology may co-invest in research and development partnerships with affiliates of management. Applicants thus submit that the requested order is consistent with the purposes of KECALP, ML Technology and MLVP II, their stated policies and the disclosure made to prospective investors. Applicants conclude that the proposed transactions are consistent with the provisions, policies and purposes of the 1940 Act.

#### Applicants' Conditions

If the requested order is granted, Applicants agree to the following conditions:

1. The Interests in BBN Switch and accompanying BBN Warrants will be acquired by MLVP II and KECALP in the manner and on the terms described in the application.

2. In connection with the deliberations and determinations of the MLVP II Independent General Partners and the Board of Directors of the KECALP General Partner, appropriate record-keeping will be maintained and made available for the SEC upon request.

3. MLVP II will not have more than 45% of its assets invested jointly with affiliates, except as a higher percentage may result from appreciation rather than acquisition of assets.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,  
Secretary.

[FR Doc. 89-4630 Filed 2-27-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-16828; 812-6941]

#### Millicom Incorporated; Application

February 22, 1989.

**AGENCY:** Securities and Exchange Commission ("Commission").

**ACTION:** Notice of Application for Exemption under the Investment Company Act of 1940 (the "1940 Act").

*Applicant:* Millicom Incorporated ("Applicant").

*Relevant 1940 Act Sections:* Exemption requested under section 6(c) from all provisions of the 1940 Act.

**SUMMARY OF APPLICATION:** Applicant seeks a temporary order exempting it from all provisions of the 1940 Act until March 31, 1989.

**FILING DATES:** The application was filed on December 28, 1987, and amended on July 14 and December 27, 1988, and February 22, 1989.

*Hearing or Notification of Hearing:* If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the Commission by 5:30 p.m., on March 17, 1989. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the Commission, along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

**ADDRESSES:** Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20459. Applicant, J. Shelby Bryan, Millicom Incorporated, 153 East 53rd Street, New York, New York 10022.

**FOR FURTHER INFORMATION CONTACT:** Staff Attorney Regina Hamilton (202) 272-3024, or Special Counsel H. R. Hallock, Jr. (202) 272-3030 (Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier: (800) 231-3282 (in Maryland (301) 258-4300).

#### Applicant's Representations.

1. Applicant, a Delaware corporation, is engaged in the business of developing and operating telecommunications services businesses. Such business includes, either directly or through joint ventures with other telecommunications



companies, securing licenses to operate and operating two-way cellular radio telephone and one-way digital paging services.

2. In 1982, Applicant began a joint venture with Racal Electronics plc, a public company organized in England ("Racal"), to establish cellular radio telephone service in the United Kingdom under the name "Vodafone." Applicant owned a 15% nondilutable equity interest in the Vodafone joint venture, together with a fee equal to 10% of the pre-tax profits of the venture over a 15-year period.

3. Racal engages in a diverse business, including security, data communications, radio communication, marine and energy electronics, defense radar and avionics, and telecommunications operations. Racal's reported revenues for the year ending March 31, 1988, were 1.36 billion pounds with a pre-tax profit of 138 million pounds. Racal shares are listed on the London Stock Exchange.

4. In December 1988, Racal offered Applicant an opportunity to exchange its interest in Vodafone for voting shares of Racal stock. Applicant viewed the shares as an asset more liquid than its joint venture interest that would provide it with the funds necessary to expand its other telecommunications businesses.

5. On December 29, 1986, Applicant exchanged its interest in the Vodafone joint venture for 41,874,143 voting shares of Racal (the "Racal Shares") pursuant to an exchange agreement ("Exchange Agreement"). As a result of the exchange, Applicant's "investment security" assets as defined in the 1940 Act exceeded 40% of Applicant's non-cash and Government securities assets, with the consequence that Applicant could be deemed to be an investment company under the definition of section 3(a)(3) of the 1940 Act. Thus on February 27, 1987, Applicant's Board of Directors adopted a resolution pursuant to Rule 3a-2, effecting a temporary exception from section 3(a).

6. Applicant's acquisition of such securities resulted from an opportunity provided by a significant increase in value of one of the telecommunications businesses developed in the course of Applicant's operations and does not represent any intention by the Applicant to engage in the business of investing, reinvesting, owning, holding or trading in investment securities or any business other than active participation in diverse telecommunications businesses. Applicant continues to engage in the business of operating cellular radio telephone and digital paging systems, applying for licenses to operate such

systems, developing similar systems worldwide, and operating other telecommunications businesses. The Racal Shares represent the only marketable securities owned by Applicant or any of its subsidiaries.

7. Since its acquisition of Racal Shares in December 1986, Applicant has reduced the value of its assets which may be deemed investment securities by selling its Racal Shares and by increasing Applicant's activities in its operating businesses using the proceeds from such sales. The market value of the Racal Shares held by Applicant, together with a \$15 million promissory note due January 2, 1988, received in a related transaction (and which has since been paid in full), represented \$134,359,397 or 92.8% of Applicant's non-cash assets as of December 31, 1986, and \$146,201,438 or 86.9% as of October 31, 1987. By November 30, 1988, the percentage was reduced to 49.79%, and less than 43% as of February 20, 1989. Applicant's ability to dispose of the Racal Shares quickly and in large numbers has been restricted under the Exchange Agreement.

8. Under the Exchange Agreement, Applicant was permitted to sell no more than 20% of the Racal Shares during the year ending December 29, 1987. The Exchange Agreement further restricted any sale of Racal Shares by Applicant by granting Racal a right of first refusal. Racal's practice has been to waive its right of first refusal provided that the sale is conducted through Racal's market maker. The Exchange Agreement thus requires prior disclosure to at least Racal, and traditionally also to its market maker.

9. Nonetheless, Applicant has submitted to the Commission a proposed sale plan (for which it has requested confidential treatment) to reduce its investment securities holding to less than 40% of its non-cash and Government securities assets by March 31, 1989. Under the plan, Applicant proposes to sell Racal Shares from time to time and to develop its operating business so that as of that date, it will no longer be deemed an investment company under the 1940 Act.

#### Applicant's Legal Analysis

1. Applicant submits that its historical development, the nature of its assets, the source of its income, its public representations of policy, and the activities of its officers and directors demonstrate that Applicant has been a communications service company actively engaged in seeking licenses to operate cellular radio telephone systems; in operating two-way cellular radio telephone systems, one-way

digital radio systems, and other voice and digital communications systems; and in developing other communications businesses. Following the exchange of Vodafone for Racal Shares, Applicant has continued to pursue its many telecommunications businesses. Applicant submits that it has not been, nor is it now, primarily engaged in the business of investing, reinvesting, owning, holding or trading in securities. Applicant's ability to obtain the interest in Vodafone which resulted in its significant ownership of Racal Shares was based on its telecommunications expertise.

2. The value of the Applicant's assets other than cash and cash equivalents and investment securities has increased from \$10.5 million in December 1986 to approximately \$40 million as of June 30, 1988, and to approximately \$51.2 million as of September 30, 1988. Based on the determination by the Board of Directors of the Applicant of the fair value of the Applicant's interest in two cellular telephone ventures, the fair value of the Applicant's total assets which are not cash or investment securities was \$115.3 million as of September 30, 1988. On November 30, 1988, the Applicant's investment securities represented 49.79% of the Applicant's noncash and Government security assets based on their fair value as determined by the Board.

3. Applicant's operating revenues increased from \$1.3 million for the year ending December 31, 1986, to \$14.8 million for the year ending December 31, 1987, to \$37.5 million for the nine months ending September 30, 1988. Thus, operating revenues exceeded the income from the sales of, and dividends on, Racal Shares for 1987 (\$13.4 million), and far exceeded the income from sales of, and dividends on, Racal Shares for the nine-month period ending September 30, 1988 (\$12.7 million). The income from the sales of Racal Shares have been used primarily in support of other businesses. Applicant anticipates that in 1989, the income generated by the Racal Shares will continue to constitute a steadily decreasing percentage of Applicant's total revenues and earnings.

4. Applicant has never represented the nature of its business as anything other than that of the communications service industry. Applicant's annual reports, press releases, and securities filings consistently have included detailed descriptions of Applicant's efforts in this field. Applicant has never represented itself as an investment company or as a company possessing investment expertise.



5. Applicant's management is clearly engaged in the communications business, rather than in managing an investment securities portfolio. Each of the Applicant's key officers devotes substantially all of his time to the Applicant's businesses of obtaining new licenses, acquiring, developing or operating communications businesses or telecommunications licenses. In addition to Applicant's officers, applicant employs about 475 people who are involved in the operation of Applicant's businesses, marketing the Applicant's products and services, providing technical services to the Applicant's systems, and administering Applicant's business. None of the activities of any of the officers on behalf of the Applicant involves trading in securities and none of Applicant's employees are employed in researching or monitoring investments for Applicant.

6. Applicant's proposal for the sale of Racial Shares will result in a substantial reduction in the value of Applicant's investment securities. Such reduction, together with anticipated increases in the value of the Applicant's non-cash assets other than investment securities, will effectively remove Applicant from investment company status by March 31, 1989.

7. Applicant believes it is not the type of company intended to be governed by the 1940 Act, as it is primarily engaged in a business other than investing, reinvesting, owning, holding, or trading in securities and therefore falls within the exception set forth in section 3(b)(2). However, Applicant has requested temporary conditional relief pursuant to section 6(c), given that the circumstances giving rise to the request for relief will no longer obtain after March 31, 1989.

8. The Applicant submits that the Commission should issue the requested order of exemption pursuant to section 6(c) of the 1940 Act as necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the 1940 Act. The Applicant maintains that its contemplated operations are not susceptible to abuses of the sort that the 1940 Act was designed to remedy.

9. The requested order is necessary or appropriate in the public interest because the changes necessitated by registration under the 1940 Act would involve an unnecessary burden and expense for the Applicant and its stockholders where no likelihood of abuse exists.

10. The requested order is consistent with the purposes fairly intended by the policies and provisions of the 1940 Act,

as no regulatory purposes of the 1940 Act would be served by requiring Applicant to register under the 1940 Act.

#### **Applicant's Conditions**

The Applicant agrees that if the requested order is granted, it will comply with the following conditions:

1. The Applicant will not engage in the trading of investment securities for speculative purposes.

2. The Applicant will continue to be primarily engaged in a non-investment company business.

3. In accordance with the confidential sales proposal submitted to the Commission, Applicant will seek to decrease the value of its total assets comprised of investment securities so as not to be an investment company within the meaning of the 1940 Act and the rules thereunder as soon as reasonably possible, and in any event, within the period during which the requested order is in effect.

4. The Applicant agrees that to the extent the proceeds of the sale of investment securities are not applied to its other operating businesses or otherwise expended for valid business purposes, such proceeds will be held only in U.S. government securities or short-term high quality money market instruments. In no event will the proceeds of the sale of investment securities be used to purchase additional investment securities.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,  
Secretary.

[FR Doc. 89-4631 Filed 2-27-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-16829; 812-7220]

#### **WNC California Housing Tax Credits, L.P.; Application**

February 22, 1989.

**AGENCY:** Securities and Exchange Commission ("SEC").

**ACTION:** Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act").

**APPLICANTS:** WNC California Housing Tax Credits, L.P. (the "Partnership"), and its managing general partner, WNC Resources, Inc. (the "Managing General Partner").

**RELEVANT 1940 ACT SECTIONS:** Exemption requested under section 6(c) of the 1940 Act from all provisions of the 1940 Act.

**SUMMARY OF APPLICATION:** The Partnership, a California limited partnership formed to invest in other limited partnerships which will own and operate apartment complexes to be qualified for the low income housing tax credit under the Internal Revenue Code of 1986, as amended, and its Managing General Partner, a California corporation, seek an order exempting the Partnership from all provisions of the 1940 Act in connection with the Partnership's proposed offering in California of units of limited partnership interest in the Partnership.

**FILING DATE:** The application was filed on January 23, 1989.

**HEARING OR NOTIFICATION OF HEARING:** If no hearing is ordered, the application will be granted. Any interested person may request a hearing on the application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on March 20, 1989. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

**ADDRESSES:** Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, c/o WNC Resources, Inc., 546 South Bay Front, Drawer GG, Newport Beach, California 92662.

**FOR FURTHER INFORMATION CONTACT:** H.R. Hallock, Jr., Special Counsel, at (202) 272-3030 (Division of Investment Management, Office of Investment Company Regulation).

#### **SUPPLEMENTARY INFORMATION:**

Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier who can be contacted at (800) 231-3282 (in Maryland (301) 258-4300).

#### **Applicants' Representatives**

1. The Partnership was formed under the California Revised Limited Partnership Act on September 15, 1988, to invest in other limited partnerships ("Local Limited Partnerships"), which, in turn, will engage in the ownership and operation of apartment complexes for low and moderate income persons. The Partnership's objectives are to provide tax benefits in the form of tax credits which qualified investors, as defined in the Partnership's prospectus (the



"Prospectus"), may use to offset their Federal and California income tax liabilities, to preserve and protect the Partnership's capital, to provide long-term capital appreciation through increases in the values of the apartment complexes and to provide cash distributions from sale or refinancing transactions.

2. On January 18, 1989, the Partnership filed a registration statement under the Securities Act of 1933, pursuant to which the Partnership intends to offer in the State of California 4,000 units of limited partnership interest ("Units") at \$2,500 per Unit (minimum investment-two Units). Purchasers of Units will become limited partners ("Limited Partners") of the Partnership.

3. Although the Partnership's direct control over the management of each apartment complex will be limited, the Partnership's ownership of interests in Local Limited Partnerships shall, in an economic sense, be tantamount to direct ownership of the apartment complexes themselves. The Partnership will normally acquire at least a 90% interest in the profits, losses, cash flow distributions, and tax credits of the Local Limited Partnerships.

4. The Partnership will be controlled by the Managing General Partner and Wilfred N. Cooper, its general partners (the "General Partners"), pursuant to the Partnership's partnership agreement (the "Partnership Agreement"). The Limited Partners, consistent with their limited liability status, will not be entitled to participate in the control of the business of the Partnership. Limited Partners owning a majority of the Units will have the right to amend the Partnership Agreement (subject to certain limitations), to remove any General Partner and elect a replacement therefor and to dissolve the Partnership. In addition, under the Partnership Agreement, each Limited Partner is entitled to review all books and records of the Partnership at any and all reasonable times.

5. All proceeds of the public offering of Units will initially be placed in an escrow account with American Interstate Bank ("Escrow Agent"). Pending release of offering proceeds to the Partnership, the Escrow Agent will deposit escrowed funds in accordance with instructions from the Managing General Partner in short-term United States Government securities, securities issued or guaranteed by the United States Government and certificates of deposit or time or demand deposits in commercial banks. Upon receipt of a prescribed minimum number of subscriptions, funds in escrow will be released to the Partnership and held in

trust pending investment in Local Limited Partnerships.

#### Applicants' Legal Analysis

1. The exemption of the Partnership from all provisions of the 1940 Act is both necessary and appropriate in the public interest, because: (a) investment in low and moderate income housing in accordance with the national policy expressed in Title IX of the Housing and Urban Development Act of 1968 is not economically suitable for private investors without the tax and organizational advantages of the limited partnership form; (b) the limited partnership form provides the only means of bringing private equity capital into such housing, particularly because public investors typically consider investment in low and moderate income housing programs as involving greater risk than real estate investment generally; and (c) the limited partnership form insulates each limited partner from personal liability and limits financial risk incurred by the limited partner to the amount he has agreed to invest in the program, while also allowing the limited partner to claim on his individual tax return his proportionate share of the credits, income and losses from the investment.

2. The Partnership will operate in accordance with the purposes and criteria set forth in Investment Company Act Release No. 8456 (August 9, 1974) ("Release No. 8456"). The final paragraph of Release No. 8456 contemplates that the exemptive power of the SEC under section 6(c) may be applied to two-tier partnerships which engage in the kind of activities in which the Partnership will engage, that is, "two-tier partnerships that invest in limited partnerships engaged in the development and building of housing for low and moderate income persons. . . ." The release lists two conditions, designed for the protection of investors, which must be satisfied in order to qualify for such an exemption: (1) "interests in the issuer should be sold only to persons for whom investments in limited profit, essentially tax-shelter, investments would not be unsuitable \* \* \*;" and (2) "requirements for fair dealing by the general partner of the issuer with the limited partners of the issuer should be included in the basic organizational documents of the company."

3. Any subscriptions for Units must be approved by the Managing General Partner, which approval shall be conditioned upon representations as to suitability of the investment for each subscriber. Such investor suitability standards provide, among other things,

that investment in the Partnership is suitable only for an investor who either (1) has a net worth (exclusive of home, furnishings and automobiles) of at least \$50,000 and an annual gross income of not less than \$65,000 or (2) irrespective of annual income, has a net worth (exclusive of home, furnishings and automobiles) of at least \$200,000, or is purchasing in a fiduciary capacity for a person or entity having such net worth and annual gross income as set forth in clause (1) or such net worth as set forth in clause (2). Transfer of Units will be permitted only if the transferee meets the same suitability standards as had been imposed upon the transferor Limited Partner.

4. The Partnership Agreement and Prospectus contain numerous provisions designed to insure fair dealing by the General Partners with the Limited Partners. All compensation to be paid to the General Partners and their affiliates is specified in the Partnership Agreement and Prospectus and no compensation will be payable to the General Partners or any of their affiliates unless so specified. The fees and other forms of compensation that will be paid to the General Partners and their affiliates will not have been negotiated at arm's length; however, all such compensation is believed to be fair and on terms no less favorable to the Partnership than would be the case if such arrangements had been made with independent third parties. Further, the Partnership believes that such compensation meets all applicable guidelines necessary to permit the Units to be offered and sold in the State of California and would also satisfy the requirements of states which adhere to the guidelines comprising the statement of policy adopted by the North American Securities Administrators Association, Inc. applicable to real estate programs in the form of limited partnerships.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,  
Secretary.

[FR Doc. 89-4632 Filed 2-27-89; 8:45 am]

BILLING CODE 8010-01-M

**Issuer Delisting; Application To Withdraw From Listing and Registration; (Solitron Devices, Inc., Common Stock, \$.01 Par Value, American Stock Exchange) File No. 1-4978**

February 22, 1989.



Soliton Devices, Inc. ("Company") has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to remove the above specified security from listing and registration on the American Stock Exchange ("AMEX"). The Company's Common Stock was recently listed and registered on the New York Stock Exchange, Inc. ("NYSE") and trading in the stock on the NYSE commenced on February 19, 1988. The Company's common stock is also listed and traded on the Pacific Stock Exchange, Inc. ("PSE").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

In making the decision to withdraw its common stock from listing on the AMEX, the Company considered the direct and indirect costs and expenses attendant on maintaining the multiple listing of its common stock on the NYSE, PSE, and the AMEX. The Company does not see any particular advantage in the trading of its stock on three stock exchange and believes that such multiple listing may fragment the market for its common stock.

Any interested person may, on or before March 15, 1989, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-4590 Filed 2-27-89; 8:45 am]

BILLING CODE 8010-01-M

## DEPARTMENT OF STATE

[Public Notice CM-8/1266]

### Shipping Coordinating Committee, Subcommittee on Ocean Dumping; Meeting

The Subcommittee on Ocean Dumping of the Shipping Coordinating Committee will hold an open meeting on Thursday,

March 23, 1989. The meeting will convene at 1:00 p.m. in the Conference Room of the Office of Marine and Estuarine Protection, 8th Floor, Fairchild Building, 449 S. Capitol Street, Washington, DC 20003. Members of the public are invited and free to attend up to the seating capacity of the room.

The purpose of the meeting is to review and discuss the U.S. position for the Twelfth Meeting of the Scientific Group on Dumping of the London Dumping Convention on April 10-14, 1989. The agenda also will include a review of the Eleventh Consultative Meeting of Contracting Parties to the Convention and the most recent meeting of the *ad hoc* Group of Experts on the Annexes to the London Dumping Convention.

For further information, contact Darrell Brown, Environmental Protection Agency, Office of Marine and Estuarine Protection (WH-556F), Washington, DC 20460, telephone (202) 475-8448.

The Chairman will entertain comments from the public as time permits.

Date: February 22, 1989.

Thomas J. Wajda,

Chairman, Shipping Coordinating Committee.

[FR Doc. 89-4558 Filed 2-27-89; 8:45 am]

BILLING CODE 4710-09-M

### [Delegation of Authority No. 172; Public Notice 1097]

#### Delegation of Authority with Respect to Performance of the Functions of Central Authority Under the Hague Convention on the Civil Aspects of International Child Abduction

By virtue of the authority vested in me by Executive Order 12648 of August 11, 1988, 53 FR 30637 (1988), and section 4 of the Act of May 26, 1949 (22 U.S.C. 2658), I hereby delegate to the Assistant Secretary of State for Consular Affairs all duties, responsibilities, authorities, and powers necessary to carry out the functions of Central Authority for the United States under the Hague Convention on the Civil Aspects of International Child Abduction and the International Child Abduction Remedies Act, Pub. L. No. 100-300 of April 29, 1988, and authority to prescribe such regulations as may be necessary and proper in order to enable the Department of State to perform the functions of the Central Authority.

The Assistant Secretary may, to the extent consistent with law, redelegate such functions and authorize their successive redelegation.

Date: August 30, 1988.

John C. Whitehead,

Acting Secretary of State.

Editorial Note: This document was received by the Office of the Federal Register on February 23, 1988.

[FR Doc. 89-4564 Filed 2-27-89; 8:45 am]

BILLING CODE 4710-06-M

### [Delegation of Authority No. 173; Public Notice 1098]

#### Delegation of Authority

By virtue of the authority vested in me by the Acting Secretary in Delegation of Authority No. 172, dated August 30, 1988, I hereby delegate to the Director of the Office of Citizens Consular Services all duties, responsibilities, authorities, and powers necessary to carry out the functions of Central Authority for the United States under the Hague Convention on the Civil Aspects of International Child Abduction and the International Child Abduction Remedies Act, Pub. L. No. 100-300 of April 29, 1988.

Notwithstanding this delegation of authority, the Assistant Secretary of State for Consular Affairs may at any time exercise any authority conferred by Delegation of Authority no. 172.

Date February 16, 1989

Joan M. Clark,

Assistant Secretary of State for Consular Affairs.

[FR Doc. 89-4565 Filed 2-27-89; 8:45 am]

BILLING CODE 4710-06-M

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

[PB-89-1; SA-89-1]

#### Petition for Waivers of Compliance; Burlington Northern Railroad, et al.

In accordance with 49 CFR 211.9 and 211.41 and 45 U.S.C. 1-16 and 1013, notice is hereby given that the Federal Railroad Administration (FRA) has received a request for waivers of compliance with certain requirements of the federal railroad safety laws and regulations. The individual petitions are described below, including the party seeking relief, the regulatory provisions involved, and the nature of the relief being requested.



# **Burlington Northern Railroad and Norfolk Southern Corporation**

*Waiver Petition Docket Numbers PB-89-1 and SA-89-1*

The Burlington Northern Railroad (BN) and the Norfolk Southern Corporation (NS) (on behalf of its operating subsidiaries) jointly request waivers of compliance with certain provisions of the railroad power brakes regulation (49 CFR Part 232), under Docket No. PB-89-1, and the safety appliance regulation (49 CFR Part 231), under Docket No. SA-89-1.

The BN and NS seek these waivers of compliance to permit the operation of railroad/highway vehicles which are designated as "RoadRailer" units. The BN and NS are entering into an agreement for the BN to use NS RoadRailer equipment between Chicago, Illinois and St. Paul, Minnesota, a distance of less than 500 miles. The BN proposes to interchange RoadRailer equipment with the NS at the NS's Calumet Yard in Chicago and move it to destination into BN's Midway Hub Center in St. Paul.

NS is presently operating 500 RoadRailer vehicles under a temporary conditional waiver (Docket Numbers SA-87-2 and PB-87-4) issued by FRA on July 28, 1987. (See notice of waiver petitions, 52 FR 16326, May 4, 1987, for more detailed discussion.) These vehicles are almost identical to the standard semi-trailer presently used to haul cargo over the highway, the only difference being that they are equipped with a special drawbar, railroad running wheels and a special railroad brake system. The railroad wheels are mounted on a single axle, either to the rear of the normal tandem highway wheels or between the tandem highway wheels of the semi-trailer. The RoadRailer vehicles, by design, cannot be subjected to traditional switching procedures conducted in railroad classification yards. The coupler assembly will only couple to another RoadRailer vehicle or to a specially designed adapter car between the locomotive and a RoadRailer train, and the drawbar height is nonstandard. The temporary conditional waiver granted to the NS permits noncompliance with all the provisions of the Safety Appliance Standards (49 CFR Part 231). These standards include provisions that provide the number, location and dimensional specifications for the handholds, ladders and sill steps that are required for each railroad car. In addition, the train air brake system on a RoadRailer train is not compatible with the more traditional system found on freight trains and would not be in

compliance with the power brake regulation (49 CFR Part 232). It was for these reasons that the NS applied for relief from Parts 231 and 232. It is for the same reasons that the BN and NS are seeking conditional waivers similar to those that were granted to the NS.

One of the conditions of the NS temporary waiver is that the NS is not permitted to interchange the RoadRailer units with any other railroads, except the operating subsidiaries of the NS Corporation (Norfolk Western Railway and the Southern Railway). The BN and NS are petitioning the FRA to have this condition modified so as to allow interchange of the RoadRailer units between the BN and NS to provide the service described in the BN's petition. The BN and NS would agree to all other terms and conditions that presently exist for the operation of the RoadRailer equipment by the NS.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number PB-88-2) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Communications received before March 30, 1989, will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m. to 5 p.m.) in Room 8201, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

Issued in Washington, DC, on February 21, 1989.

J.W. Walsh,

*Associate Administrator for Safety.*

[FR Doc. 89-4587 Filed 2-27-89; 8:45 am]

BILLING CODE 4910-06-M

[SA-89-2; SA-89-3]

## **Petitions for Waivers of Compliance; Ohio Central Railroad, Inc., et al.**

In accordance with 49 CFR 211.9 and

211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received requests for a waiver of compliance with certain requirements of its safety standards. The individual petitions are described below, including the parties seeking relief, the regulatory provisions involved, and the nature of the relief being requested.

### **Ohio Central Railroad, Inc.**

*Waiver Petition Docket Number SA-89-2*

The Ohio Central Railroad, Inc. (OHCR) requests a waiver of compliance with certain provisions of the Railroad Safety Appliance Standards (49 CFR Part 231) for its Locomotive Number 45 (OHCR 45). The OHCR seeks a waiver of compliance with those provisions of § 231.30, "Locomotives used in switching service," that require that each locomotive used in switching service be equipped with four side switching steps, each of which shall have a minimum width of twenty four (24) inches and a minimum depth of twelve (12) inches for locomotives built after March 31, 1977; and for locomotives built prior to that date the minimum width of the step shall be eighteen (18) inches and the minimum depth shall be eight (8) inches.

The OHCR 45 is a 44-ton industrial switcher type locomotive rated at 300 horsepower that was built by the General Electric Company in 1953. Prior to acquisition for operation on the OHCR, this locomotive was owned by an industry and used as an industrial switcher. This type of locomotive has side switching steps which are narrower and of less depth than those required by the Safety Appliance Standards (§ 231.30(c)). The railroad states that the construction of the OHCR 45 does not permit it to be retrofitted with side switching steps different than it currently possesses.

The OHCR is a Class III railroad operating a single-track, unsignaled rail line between Harmon and Zanesville, Ohio, a distance of 71 miles. The railroad maintains no switching or classification yards. The principal planned activity of the OHCR 45 will be placing freight cars at industrial plants and distributing company material. The railroad contends that granting the waiver will improve its ability to utilize its assets and serve its customers, and will not impair the safety of its employees, customers, or the public.



**Wisconsin and Calumet Railroad Company, Inc.**

Waiver Petition Docket Number SA-89-3

The Wisconsin and Calumet Railroad Company, Inc. (WICT) requests a waiver of compliance with certain provisions of the Railroad Safety Appliance Standards (49 CFR Part 231) for its Locomotives No. 106, 901 and 612. The WICT seeks a waiver of compliance with those provisions of Section 231.30, "Locomotives used in switching service," that require that each locomotive used in switching service be equipped with four side switching steps each of which shall have a minimum width of twenty four (24) inches and a minimum depth of twelve (12) inches for locomotives built after March 31, 1977; and for locomotives built prior to that date the minimum width of the step shall be eighteen (18) inches and the minimum depth shall be eight (8) inches.

Locomotives No. 106 and 901 are freight locomotives referred to as "F" type having a closed hood car body which encompasses both the engine room and related equipment and the operating control cab. Locomotive No. 612 is a 25-ton industrial switcher type locomotive. The locomotives do not comply with the requirements of the Safety Appliance Standards § 231.30(c) as they pertain to side switching steps for locomotives used in switching service.

The WICT operates the locomotives over approximately 270 miles of track between Prairie Du Chien and Waukesha, Wisconsin and between Madison and Scioto Mills, Wisconsin. The operation is predominantly through rural areas and small agricultural communities.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (here, Waiver Petition Docket Numbers SA-89-2 or SA-89-3) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Communications received before April 14, 1989, will be considered by

FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.-5 p.m.) in Room 8201, Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

Issued in Washington, DC, on February 21, 1989.

J.W. Walsh,

Associate Administrator for Safety.

[FR Doc. 89-4588 Filed 2-27-89; 8:45 am]

BILLING CODE 4910-06-M

### National Highway Traffic Safety Administration

#### Highway Safety Program; Amendment of Conforming Products List of Evidential Breath Testing Devices

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.

**ACTION:** Notice.

**SUMMARY:** This notice amends the Conforming Products List for instruments which have been found to conform to the Model Specifications for Evidential Breath Testing Devices (49 FR 48854).

**EFFECTIVE DATE:** February 28, 1989.

#### FOR FURTHER INFORMATION CONTACT:

Mrs. Robin Mayer, Office of Alcohol and State Programs, NTS-21, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590; Telephone: (202) 366-9825.

**SUPPLEMENTARY INFORMATION:** On November 5, 1973, the National Highway Traffic Safety Administration (NHTSA) published the Standards for Devices to Measure Breath Alcohol (38 FR 30459). A Qualified Products List of Evidential Breath Measurement Devices comprised of instruments that met this standard was first issued on November 21, 1974 (39 FR 41399).

On December 14, 1984 (49 FR 48854), NHTSA converted this standard to Model Specifications for Evidential Breath Testing Devices, and published in Appendix D to that notice (49 FR 48864), a conforming products list (CPL) of instruments that we found to conform to the Model Specifications. Amendments to the CPL have been published in the Federal Register since that time.

Since the last publication of the CPL, Intoximeters, Inc.'s Intoximeter 3000 (IR/Fuel Cell) has been tested in accordance with the Model Specifications, and found to conform to those Specifications. The Conforming

Products list is therefore amended as follows:

#### Conforming Products List of Evidential Breath Measurement Devices

Manufacturer and Model	Mo- bile	Non- mobile
Alcohol Countermeasures System, Inc. Port Huron, MI		
Alert J3AD	X	X
BAC Systems, Inc., Ontario, Canada		
Breath Analysis Computer		X
CAMEC Ltd., North Shields, Tyne and Wear, England		
IR Breath Analyzer	X	X
CMI, Inc., Mintum, CO		
Intoxilyzer Model		
4011	X	X
4011A	X	X
4011AS	X	X
4011AS-A	X	X
4011AS-AQ	X	X
4011 AW	X	X
4011A27-10100	X	X
4011A27-10100 with filter	X	X
5000	X	X
5000 (w/Cal. Vapor Re-Circ.)	X	X
5000 (w/3/8" ID Hose option)	X	X
5000 (CAL DOJ)	X	X
5000 (VA)	X	X
PAC 1200	X	X
Decator Electronics, Decator, IL		
Alco-Tector model 500		X
Intoximeters Inc., St. Louis, MO		
Photo Electric Intoximeter		X
GC Intoximeter MK II	X	X
GC Intoximeter MK IV	X	X
Auto Intoximeter	X	X
Intoximeter Model	X	X
3000	X	X
3000 (rev B1)	X	X
3000 (rev B2)	X	X
3000 (rev B2A)	X	X
3000 (IR/Fuel Cell)	X	X
Alco-Sensor III	X	X
Alco-Sensor IIIA	X	X
RBT III	X	X
Komyo Kitagawa, Kogyo, K.K.		
Alcoolyzer DPA-2	X	X
Breath Alcohol Meter PAM 101B	X	X
Lion Laboratories, Ltd., Cardiff, Wales, UK		
Alcolmeter Model		
AE-D1	X	X
SD-2	X	X
EBA	X	X
Auto-Alcolmeter	X	X
Luckey Laboratories, San Bernardino, CA		
Alco-Analyzer Model		
1000		X
2000		X
National Draeger, Inc., Pittsburgh, PA		
Alcotest Model		
7010	X	X
7110	X	X
Breathalyzer Model		
900	X	X
900A	X	X
900BG	X	X
National Patent Analytical Systems, Inc., East Hartford, CT		
BAC Datamaster	X	X
Omicron Systems, Palo Alto, CA		
Intoxilyzer Model		
4011	X	X
4011AW	X	X
Siemens-Allis, Cherry Hill, NJ		
Alcomat	X	X
Alcomat F	X	X



# Conforming Products List of Evidential Breath Measurement Devices—Continued

Manufacturer and Model	Mo- bile	Non- mobile
Smith and Wesson Electronics, Springfield, MA Breathalyzer Model		
900.....	X.....	X.....
900A.....	X.....	X.....
1000.....	X.....	X.....
2000.....	X.....	X.....
2000 (non-Humidity Sensor).....	X.....	X.....
Stephenson Corp. Breathalyzer 900.....	X.....	X.....
Verax Systems, Inc., Fairport, NY The BAC Verifier.....	X.....	X.....
BAC Verifier Datamaster.....	X.....	X.....
BAC Verifier Datamaster II.....	X.....	X.....

(23 U.S.C. 402; delegations of authority at 49 CFR 1.50 and 501)

George Reagle,

Associate Administrator for Traffic Safety Program.

[FR Doc. 89-4568 Filed 2-23-89; 2:42 pm]

BILLING CODE 4910-59-M

## Agency Rulemaking, Research and Enforcement Programs; Meeting

**AGENCY:** National Highway Traffic Safety Administration.

**ACTION:** Notice.

**SUMMARY:** This notice announces a public meeting at which NHTSA will answer questions from the public and the automobile industry regarding the agency's rulemaking, research and enforcement programs. This notice also announces two additional meetings to be held on the implementation of the automatic occupant protection requirements of Standard No. 208, *Occupant Protection*.

**DATES:** The agency's regular, quarterly public meeting relating to the agency's rulemaking, research and enforcement programs will be held on April 27, 1989, beginning at 10:30 a.m. Questions relating to the agency's rulemaking, research and enforcement programs, must be submitted in writing by April 17, 1989. If sufficient time is available, questions received after the April 17 date may be answered at the meeting. The individual, group or company submitting a question does not have to be present for the question to be answered. A consolidated list of the questions submitted by April 17, and the issues to be discussed, will be mailed to interested persons by April 24, 1989. This list will also be available at the meeting.

**ADDRESS:** Questions for the April 27 meeting relating to the agency's

rulemaking, research, and enforcement programs should be submitted to Barry Felrice, Associate Administrator for Rulemaking, Room 5401, 400 Seventh Street, SW., Washington, DC 20590. The public meeting will be held in the Conference Room of the Environmental Protection Agency's Laboratory Facility, 2565 Plymouth Road, Ann Arbor, Michigan.

**SUPPLEMENTARY INFORMATION:** NHTSA will hold its regular, quarterly meeting to answer questions from the public and industry regarding the agency's rulemaking, research, and enforcement programs on April 27, 1989. The meeting will begin at 10:30 a.m., and will be held in the Conference Room of the Environmental Protection Agency's Laboratory Facility, 2565 Plymouth Road, Ann Arbor, Michigan. The purpose of the meeting is to focus on those phases of these NHTSA activities which are technical, interpretative or procedural in nature. A transcript of the meeting will be available for public inspection in the NHTSA Technical Reference Section in Washington, DC within four weeks after the meeting. Copies of the transcript will then be available at twenty-five cents for the first page and five cents for each additional page (length has varied from 100 to 150 pages) upon request to NHTSA Technical Reference Section, Room 5108, 400 Seventh Street, SW., Washington, DC 20590.

The agency also wishes to announce that following the two public meetings which are tentatively scheduled for July and October, it will conduct a discussion of issues relating to the implementation of the automatic occupant protection requirements of Standard No. 208. Following the July NHTSA/Industry/Public meeting, the agency will hold a meeting on issues regarding automatic safety belts. Discussions would include usage rates of various types of belt systems, their effectiveness in reducing casualties when used, and consumer acceptance issues.

Following the tentatively scheduled October NHTSA/Industry/Public meeting, the agency will hold a meeting to discuss air bag-related issues, including their safety effectiveness, reliability, belt usage with air bags, threshold deployment strategies, sensor strategies, bag design (tethered, folded, type of material, venting, etc.), belt pretensioner use, data collection protocols, and consumer acceptance issues. For both the July and October sessions on automatic occupant protection, the agency anticipates presentations by automobile

manufacturers, suppliers, the insurance industry, dealers, and the automobile repair industry. Other organizations are also welcome to prepare presentations. Those desiring to make presentations should contact Mary Coyle, NRD-01, Room 6206, 400 Seventh Street, SW., Washington, DC 20590, telephone (202) 366-1537.

Issued on February 22, 1989.

Marilynne Jacobs,

Acting Associate Administrator for Rulemaking.

[FR Doc. 89-4513 Filed 2-27-89; 8:45 am]

BILLING CODE 4910-59-M

## DEPARTMENT OF THE TREASURY

### Treasury Advisory Committee on Customs Commercial Operations; Meeting

**AGENCY:** Departmental Offices, Treasury.

**ACTION:** Notice of meeting.

**SUMMARY:** This notice announces the date of the next meeting and the agenda for consideration by the Advisory Committee on Customs Commercial Operations.

**DATE:** The next meeting of the Treasury Advisory Committee on Customs Commercial Operations is set for March 17, 1989, at 9:30 a.m. in Room 4121 of the Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Dennis O'Connell, Director, Office of Trade and Tariff Affairs, Office of the Assistant Secretary (Enforcement), Department of the Treasury, Room 4004, 1500 Pennsylvania Avenue, NW., Washington, DC 20220, (202) 566-8435.

**SUPPLEMENTARY INFORMATION:** Agenda items for the second meeting on March 17, 1989, of the Advisory Committee on Customs Commercial Operations will include:

1. User fees;
2. Impact of Customs Commercial operations on ports and carriers;
3. Adequacy of Customs resources to provide expected services and to implement new programs such as the Harmonized System and the Free Trade Agreement with Canada;
4. Miscellaneous legislative/regulatory changes (e.g., raising dollar ceiling on informal entries, raising *de minimis* level for collecting duties).

The meeting is open to the public. Owing to the security procedures in place at the Treasury Building, it is necessary for anyone planning to attend



the meeting to call in advance in order to be admitted to the building. Persons other than the Advisory Committee members who plan to attend should contact Dennis O'Connell at (202) 566-8435 no later than March 10, 1989 to be admitted to the building for the meeting.

Dated: February 22, 1989.

Salvatore R. Martoche,

Assistant Secretary, (Enforcement).

[FR Doc. 89-4652 Filed 2-27-89; 8:45 am]

BILLING CODE 4810-25-M

#### Bureau of Alcohol, Tobacco and Firearms

[Notice No. 679]

#### Dollar Limitation for Display and Retail Advertising Specialties

**AGENCY:** Bureau of Alcohol, Tobacco and Firearms, Treasury.

**ACTION:** General notice.

**SUMMARY:** This notice sets forth the annually updated dollar limitations

prescribed for alcohol beverage industry members under the "Tied House" provisions of the Federal Alcohol Administration Act.

**DATES:** This notice shall be effective retroactive to January 1, 1989.

**ADDRESSES:** Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Ave. NW., Washington, DC 20226.

**FOR FURTHER INFORMATION CONTACT:** Norbert Hymel, Trade Affairs Branch, (202) 566-7715.

**SUPPLEMENTARY INFORMATION:** Based on data of the Bureau of Labor Statistics, the consumer price index was 4.4 percent higher in December 1988 than in December 1987. Therefore, effective January 1, 1989, the dollar limitation for "Product Displays" (27 CFR 6.83(c)) is increased from \$134.00 to \$140.00 per brand. Similarly the "Retailer Advertising Specialties" (27 CFR 6.85(b)) is increased from \$86.00 to \$69.00 per brand. Also, the "Participation in Retailer Association Activities" (27 CFR 6.100(e)) is increased from \$134.00 to \$140.00 per year.

Industry members who wish to furnish, give, rent, loan or sell product displays or retailer advertising specialties to retailers are subject to dollar limitations (27 CFR 6.83 and 6.85). Industry members making payments for advertisements in programs or brochures issued by retailer associations at a convention or trade show are also subject to dollar limitations (27 CFR 6.100). The dollar limitations are updated annually by use of a "cost adjustment factor" in accordance with 27 CFR 6.82. The cost adjustment factor is defined as a percentage equal to the change in the Bureau of Labor Statistics' consumer price index. Adjusted dollar limitations are established each January using the consumer price index for the preceding December.

Signed: February 14, 1989.

Stephen E. Higgins,

Director.

[FR Doc. 89-4459 Filed 2-27-89; 8:45 am]

BILLING CODE 4810-31-M



# Sunshine Act Meetings

Federal Register

Vol. 54, No. 38

Tuesday, February 28, 1989

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

## COMMODITY FUTURES TRADING COMMISSION

**TIME AND DATE:** 11:30 a.m., Friday, March 3, 1989.

**PLACE:** 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

**STATUS:** Closed.

### MATTERS TO BE CONSIDERED:

Enforcement matters.

### CONTACT PERSON FOR MORE INFORMATION:

Jean A. Webb, 254-6314.

*Secretary of the Commission.*

[FR Doc. 89-4735 Filed 2-24-89; 3:49 pm]

BILLING CODE 6351-01-M

## COMMODITY FUTURES TRADING COMMISSION

**TIME AND DATE:** 11:00 a.m., Friday, March 3, 1989.

**PLACE:** 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

**STATUS:** Closed.

### MATTERS TO BE CONSIDERED:

Surveillance matters.

### CONTACT PERSON FOR MORE INFORMATION:

Jean A. Webb, 254-6314.

*Secretary of the Commission.*

[FR Doc. 89-4736 Filed 2-24-89; 3:49 pm]

BILLING CODE 6351-01-M

## COMMODITY FUTURES TRADING COMMISSION

**TIME AND DATE:** 11:00 a.m., Friday, March 10, 1989.

**PLACE:** 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

**STATUS:** Closed.

### MATTERS TO BE CONSIDERED:

Surveillance matters.

### CONTACT PERSON FOR MORE INFORMATION:

Jean A. Webb, 254-6314.

*Secretary of the Commission.*

[FR Doc. 89-4737 Filed 2-24-89; 3:49 am]

BILLING CODE 6351-01-M

## COMMODITY FUTURES TRADING COMMISSION

**TIME AND DATE:** 11:00 a.m., Friday, March 17, 1989.

**PLACE:** 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

**STATUS:** Closed.

### MATTERS TO BE CONSIDERED:

Surveillance matters.

### CONTACT PERSON FOR MORE INFORMATION:

Jean A. Webb, 254-6314.

*Secretary of the Commission.*

[FR Doc. 89-4738 Filed 2-24-89; 3:50 pm]

BILLING CODE 6351-01-M

## COMMODITY FUTURES TRADING COMMISSION

**TIME AND DATE:** 11:00 a.m., Friday, March 24, 1989.

**PLACE:** 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

**STATUS:** Closed.

### MATTERS TO BE CONSIDERED:

Surveillance matters.

### CONTACT PERSON FOR MORE INFORMATION:

Jean A. Webb, 254-6314.

*Secretary of the Commission.*

[FR Doc. 89-4739 Filed 2-24-89; 3:50 pm]

BILLING CODE 6351-01-M

## COMMODITY FUTURES TRADING COMMISSION

**TIME AND DATE:** 11:00 a.m., Friday, March 31, 1989.

**PLACE:** 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

**STATUS:** Closed.

### MATTERS TO BE CONSIDERED:

Surveillance matters.

### CONTACT PERSON FOR MORE INFORMATION:

Jean A. Webb, 254-6314.

*Secretary of the Commission.*

[FR Doc. 89-4740 Filed 2-24-89; 3:50 pm]

BILLING CODE 6351-01-M

## BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

**TIME AND DATE:** 11:00 a.m., Monday, March 6, 1989.

**PLACE:** Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Street, NW., Washington, DC 20551.

**STATUS:** Closed.

### MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments,

and salary actions) involving individual Federal Reserve System employees.

2. Any item carried forward from a previously announced meetings.

### CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: February 24, 1989.

William W. Wiles,

*Secretary of the Board.*

[FR Doc. 89-4752 Filed 2-24-89; 3:51 pm]

BILLING CODE 6210-01-M

## NUCLEAR REGULATORY COMMISSION

**DATE:** Weeks of February 27, March 6, 13, and 20, 1989.

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Open and Closed.

### MATTERS TO BE CONSIDERED:

**Week of February 27**

*Monday, February 27*

2:00 p.m.

Briefing on Final Report on BWR Mark I Containment Issues (Public Meeting)

*Wednesday, March 1*

9:30 a.m.

Briefing on Status of Performance Indicator Development (Public Meeting)

*Thursday, March 2*

10:00 a.m.

Briefing on Importing and Exporting of Radioactive Waste (Public Meeting)

11:30 a.m.

Affirmation/Discussion and Vote (Public Meeting)

a. Final Rulemaking—Fitness-for-Duty Programs (Tentative)

**Week of March 6—Tentative**

*Monday, March 6*

2:30 p.m.

Briefing on Status of Generic Issues (Public Meeting)

**Week of March 13—Tentative**

*Monday, March 13*

2:00 p.m.

Classified Security Briefing (Closed—Ex. 1)

*Wednesday, March 15*

10:00 a.m.

Briefing on Acceptance by DOE of Greater Than Class C Waste (Public Meeting)



2:00 p.m.

Preliminary Briefing on Status of NUREG-1150 (Public Meeting)

Thursday, March 16

3:30 p.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of March 20—Tentative

Wednesday, March 22

3:30 p.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

**Note.**—Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To verify the status of meeting call (recording)—(301) 492-0292.

**CONTACT PERSON FOR MORE**

**INFORMATION:** William Hill (301) 492-1661.

William M. Hill, Jr.,

Office of the Secretary.

February 23, 1989.

[FR Doc. 89-4733 Filed 2-24-89; 3:48 pm]

BILLING CODE 7590-01-M

**FEDERAL MARITIME COMMISSION**

**TIME AND DATE:** 9:30 a.m.—March 3, 1989.

**PLACE:** Hearing Room One—1100 L Street NW., Washington, DC 20573-0001.

**STATUS:** Part of the meeting will be open to the public.

The rest of the meeting will be closed to the public.

**MATTERS TO BE CONSIDERED:***Portion Open to the public:*

1. Docket No. 88-24—Proposed Rule to Implement the Foreign Shipping Practices Act of 1988—Consideration of Comments.

*Portion Closed to the public:*

1. Matson Navigation Company—General Rate Increase in the Hawaiian Trades.

2. Request of ANERA for Correction of Clerical Errors in a Service Contract.

3. Trans-Pacific Trades Malpractices.

4. Docket No. 87-6—Actions to Adjust or Meet Conditions Unfavorable to Shipping in the United States/Peru Trade.

**CONTACT PERSON FOR MORE**

**INFORMATION:** Joseph C. Polking,

Secretary, (202) 523-5725.

Joseph C. Polking,

Secretary.

[FR Doc. 89-4691 Filed 2-24-89; 10:52 am]

BILLING CODE 6730-01-M

**FEDERAL TRADE COMMISSION**

**TIME AND DATE:** 10:00 a.m., Wednesday, March 1, 1989.

**PLACE:** Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580.

**STATUS:** Open.

**MATTER TO BE CONSIDERED:**

Consideration of proposed statement of basis and purpose.

**CONTACT PERSON FOR MORE**

**INFORMATION:** Susan B. Ticknor, Office of Public Affairs: (202) 326-2179.

Recorded Message: (202) 326-2711.

Donald S. Clark,

Secretary.

[FR Doc. 89-4640 Filed 2-24-89; 8:45 am]

BILLING CODE 6750-01-M

**SECURITIES AND EXCHANGE COMMISSION****Agency Meetings**

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of February 27, 1989.

A closed meeting will be held on Tuesday, February 28, 1989, at 2:30 p.m. An open meeting will be held on Thursday, March 2, 1989, at 10:00 a.m., in Room 1C30.

The Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Grundfest, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, February 28, 1989, at 2:30 p.m., will be:

Insitution of injunctive action.  
Settlement of injunctive action.  
Institution of administrative proceeding of an enforcement nature.  
Settlement of administrative proceeding of an enforcement nature.  
Formal order of investigation.  
Consideration of *amicus* participation.  
Opinion.

The subject matter of the open meeting scheduled for Thursday, March 2, 1989, at 10:00 a.m., will be:

1. Consideration of whether to publish for comment amendments to Schedules 13D, 14D-1, 14B and 13E-3 under the Securities Exchange Act of 1934, which,

among other things, would require the disclosure of information concerning the identity and background of limited partners and other participants holding significant investments in the limited partnership or other entity engaging in a particular transaction. For further information, please contact David A. Sirignano or Richard E. Baltz at (202) 272-3097.

2. Consideration of whether to publish for comment amendments to Rules 13d-1, 13d-2 and 13d-7 and Schedules 13D and 13G under the Securities Exchange Act of 1934, which, among other things, would provide that any person, other than an institutional investor currently entitled to file on Schedule 13G in certain circumstances, who acquires or holds more than five percent, but not 20 percent or more, of a class of equity securities with a passive investment purpose, would be permitted to report that acquisition on short-form Schedule 13G within 10 days after the acquisition. For further information, please contact David A. Sirignano or Richard E. Baltz at (202) 272-3097.

3. Consideration of whether to adopt (1) amendments revising the reporting requirements for issuers changing their fiscal year end; (2) related amendments to Form 8-K requiring reporting of a change in fiscal year; (3) amendments to the accounting and proxy rules relating to financial reporting; and (4) amendments to the quarterly reporting rules modifying the timing of a new registrant's first quarterly report. For further information, please contact Howard P. Hodges at (202) 272-2553 or Barbara J. Green at (202) 272-2589.

4. Consideration of whether to propose for comment an amendment to the Commission's customer protection rule. Under the proposal, Rule 15c3-3 under the Securities Exchange Act of 1934 will be amended to allow broker-dealers to pledge certain "government securities" as collateral in government securities borrowings. For further information, please contact Michael A. Macchiaroli at (202) 272-2904.

5. Consideration of whether to adopt amendments to Form 8-K and Regulation S-K to accelerate the timing for filing Form 8-K relating to changes in accountants and resignations of directors, reduce the time period when there is a change in accountants for filing with the Commission a letter from the former accountant, and permit the former accountant to file an interim letter. For further information, please contact Robert Burns at (202) 272-2130.

At time changes in Commission priorities require alterations in the scheduling of meeting items. For further



information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Max Berueff at (202) 272-2400.

Jonathan G. Katz,

Secretary.

February 23, 1989.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 89-4714 Filed 2-24-89; 11:56 am]

BILLING CODE 8010-01-M



# Corrections

Federal Register

Vol. 54, No. 38

Tuesday, February 28, 1989

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

[Docket No. 89-005]

#### Receipt of Permit Applications for Release into the Environment of Genetically Engineered Organisms

##### Correction

In notice document 89-2053 appearing on page 4321 in the issue of Monday,

January 30, 1989, make the following correction:

In the table, under "Organism", the second entry should read "Genetically engineered tomato plants".

BILLING CODE 1505-01-D

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Care Financing Administration

#### 42 CFR Part 433

[BQC-68-F]

#### Medicaid Program; Refunding of Federal Share of Overpayments Made to Medicaid Providers

##### Correction

In rule document 89-2572 beginning on page 5452 in the issue of Friday,

February 3, 1989, make the following corrections:

#### § 433.304 [Corrected]

1. On page 5460, in the second column, in § 433.304, in the definition of "Third party", in the second line, insert a comma after "individual".

#### § 433.316 [Corrected]

2. On page 5461, in the first column, in § 433.316, in paragraph (c)(2), in the last line, the first word should read "medicaid"; and in paragraph (c)(3), in the second line, "official of" should read "official or".

#### § 433.318 [Corrected]

3. On page 5461, in the third column, in § 433.318(c) introductory text, in the last line, "it" should read "if".

BILLING CODE 1505-01-D



Introduction  
 The Department of Health and Human Services  
 The Department of Health and Human Services  
 The Department of Health and Human Services

DEPARTMENT OF AGRICULTURE

Food and Nutrition Assistance  
 Food and Nutrition Assistance  
 Food and Nutrition Assistance  
 Food and Nutrition Assistance

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Centers for Disease Control and Prevention

Food and Drug Administration

Indian Health Service

Medical Research Service

National Institute of Environmental Health Sciences

National Institute of Mental Health

National Institute of Neurological Disorders and Stroke

National Institute of Nursing Research

National Institute of Public Health and Safety

National Institute of Social Security Administration

National Institute of Standards and Technology

National Institute of Statistical Health Services

National Institute of Toxicology

National Institute of Vision Research

National Institute of Zoonotic Diseases

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Introduction  
 The Department of Health and Human Services  
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DEPARTMENT OF AGRICULTURE

Food and Nutrition Assistance  
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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Centers for Disease Control and Prevention

Food and Drug Administration

Indian Health Service

Medical Research Service

National Institute of Environmental Health Sciences

National Institute of Mental Health

National Institute of Neurological Disorders and Stroke

National Institute of Nursing Research

National Institute of Public Health and Safety

National Institute of Social Security Administration

National Institute of Standards and Technology

National Institute of Statistical Health Services

National Institute of Toxicology

National Institute of Vision Research

National Institute of Zoonotic Diseases



# Asbestos Report

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Tuesday  
February 28, 1989

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## Part II

### Environmental Protection Agency

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**Asbestos-Containing Materials in Schools;  
EPA Approved Courses and Accredited  
Laboratories Under the Asbestos Hazard  
Emergency Response Act (AHERA)**



# ENVIRONMENTAL PROTECTION AGENCY

[OPTS-62074; FRL-3528-6]

## Asbestos-Containing Materials in Schools; EPA Approved Courses and Accredited Laboratories Under the Asbestos Hazard Emergency Response Act (AHERA)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

**SUMMARY:** In section 206(c)(3) of Title II, the Administrator, in consultation with affected organizations, was directed to publish (and revise as necessary) a list of asbestos courses and tests in effect before the date of enactment of this title which qualify for equivalency treatment for interim accreditation purposes, and a list of asbestos courses and tests which the Administrator determines are consistent with the Model Plan and which will qualify a contractor for accreditation. In addition, under the amendment to TSCA Title II, section 206(f) was added which requires the Administrator to publish quarterly, beginning August 31, 1988, a list of EPA-approved asbestos training courses. The Administrator is also required to publish on a quarterly basis beginning August 31, 1988, a list of laboratories which have received accreditation from EPA. This Federal Register notice includes the cumulative sixth list of course approvals and a list that includes State accreditation programs that EPA has approved as meeting the requirements of the Model Plan. Additionally, this notice includes the most current list of accredited laboratories as of February 16, 1989.

**FOR FURTHER INFORMATION CONTACT:** Michael M. Stahl, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Room EB-44, 401 M Street SW., Washington, DC 20460. Telephone: (202) 382-3790, TDD: (204) 554-0551.

**SUPPLEMENTARY INFORMATION:** Section 206 of Title II of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2646, required EPA to develop a Model Contractor Accreditation Plan by April 20, 1987. The plan was issued on April 20, and was published in the Federal Register of April 30, 1987 (52 FR 15875), as Appendix C to Subpart E, 40 CFR Part 763.

To conduct asbestos-related work in schools, persons must receive accreditation in order to inspect school buildings for asbestos, develop management plans, and design or

conduct response actions. Such persons can be accredited by States, which are required under Title II to adopt contractor-accreditation plans at least as stringent as the EPA Model Plan, or by completing an EPA-approved training course and passing an examination for such course. The EPA Model Contractor Accreditation Plan establishes those areas of knowledge of asbestos inspection, management plan development, and response action technology that persons seeking accreditation must demonstrate and States must include in their accreditation programs.

In the Federal Register of October 30, 1987 (52 FR 41828), EPA promulgated a final "Asbestos-Containing Materials in Schools" rule (40 CFR Part 763, Subpart E) which required all local education agencies (LEAs) to identify asbestos-containing materials (ACM) in their school buildings and take appropriate actions to control the release of asbestos fibers. The LEAs are also required to describe their activities in management plans, which must be made available to the public and submitted to State governors. Under Title II, LEAs are required to use specially-trained persons to conduct inspections for asbestos, develop the management plans, and design or conduct major actions to control asbestos. The new rule took effect on December 14, 1987.

The length of initial training courses for accreditation under the Model Plan varies by discipline. Briefly, inspectors must take a 3-day training course; management planners must take the inspection course plus an additional 2 days devoted to management planning; and abatement project designers are required to have at least 3 days of training. In addition, asbestos abatement contractors and supervisors must take a 4-day training course and asbestos abatement workers are required to take a 3-day training course. For all disciplines, persons seeking accreditation must also pass an examination and participate in annual re-training courses. A complete description of accreditation requirements can be found in the Model Accreditation Plan at 40 CFR Part 763, Subpart E, Appendix C.I.1. A through E.

In section 206(c)(3) of Title II, and as amended by section 206(f), the Administrator, in consultation with affected organizations, is directed to publish quarterly a list of asbestos courses and tests in effect before the date of enactment of this title which qualified for equivalency treatment for interim accreditation purposes, and a list of asbestos courses and tests which the Administrator determined were

consistent with the Model Plan and which qualify a contractor for accreditation. In addition, the Agency has included in this notice the most current list of laboratories which have received interim accreditation from EPA for the analysis of bulk materials for asbestos by polarized light microscopy (PLM).

The Federal Register notice of October 30, 1987, included the initial list of course approvals. In addition, the list included State accreditation programs that EPA has approved as meeting the requirements of the Model Plan. The second Federal Register notice of February 10, 1988 (53 FR 3962), the third Federal Register notice of June 1, 1988 (53 FR 20060), and the fourth Federal Register of August 31, 1988 (53 FR 33574), and the fifth Federal Register of November 30, 1988 (53 FR 48424) were cumulative listings of EPA course approvals and EPA approved State accreditation programs.

This Federal Register notice is divided into five units. Unit I discusses EPA approval of State accreditation programs. Unit II covers EPA approval of training courses. Unit III discusses EPA approval of training courses for interim accreditation. Unit IV provides the list of State accreditation programs and training courses approved by EPA as of January 1989. Unit V contains a listing of all laboratories, under the EPA Interim Accreditation Program for laboratories that are conducting analysis of bulk samples of ACM. Subsequent Federal Register notices will add other State programs and training courses as well as accredited laboratories to this sixth cumulative list.

### I. EPA Approval of State Accreditation Programs

As discussed in the Model Plan, EPA is able to approve State accreditation programs that the Agency determines are at least as stringent as the Model Plan. In addition, the Agency is able to approve individual disciplines within a State's accreditation program. For example, a State that currently only has an accreditation requirement for inspectors can receive EPA approval for that discipline immediately rather than waiting to develop accreditation requirements for all disciplines in the Model Plan before seeking EPA approval. EPA can also approve State training programs that do not fully meet the Model Plan's requirements but do meet the requirements for interim accreditation.

As listed in Unit IV, Arkansas, Iowa, Kansas, Massachusetts, Minnesota, New Jersey, Oregon, Rhode Island, South



Dakota and Virginia have received EPA full approval for two accreditation disciplines, abatement workers as well as contractors and supervisors, that are at least as stringent as the Model Plan. In addition, the States of Iowa, Massachusetts, South Dakota and Virginia have received full approval for their inspector/management planner and project designer disciplines. Any training courses in those disciplines approved by the aforementioned States are EPA-approved courses for purposes of accreditation. These training courses are EPA-approved courses for purposes of TSCA Title II in these States and in all States without an EPA-approved accreditation program for that discipline. Current lists of training courses approved by Arkansas, Massachusetts, New Jersey, Oregon, Rhode Island, South Dakota and Virginia are listed under Unit IV. Iowa and Kansas do not have separate provider listings since the States have not independently approved any additional courses.

Each State accreditation program may have different requirements for State accreditation. For example, New Jersey requires participants of their courses to take the State exam. Therefore, those New Jersey approved course sponsors who are contemplating presenting the training in another State must develop their own examination. They must also submit a detailed statement about the development of the course examination as required by the Model Plan to the Regional Asbestos Coordinator in their region for EPA approval.

EPA has also approved a number of State programs for purposes of providing interim accreditation for persons who have met the training and examination requirements of these State programs. Persons meeting such requirements in these States have completed a training course and examination similar to the Model Plan's requirements before December 14, 1987. However, these individuals must become fully accredited within the time period specified in the Model Plan.

States that have approval for interim accreditation purposes for abatement contractors, supervisors, and workers include Alaska, Arkansas, Kansas, and Washington. Illinois and Michigan have approval for interim accreditation purposes for abatement workers only. Persons with interim accreditation in these States are eligible to conduct work during the time period specified in the Model Plan. However, these persons must eventually become fully accredited. In addition, these persons must take a complete EPA-approved

course (see Unit II) or an EPA-approved State program's course for full accreditation. In most States, the complete course will have to be taken before autumn 1989. All States programs nationwide that do not fully meet the Model Plan's requirements must be upgraded within the time period specified in TSCA Title II to be at least as stringent as the Model Plan.

## II. EPA Approval of Training Courses

A cumulative list of training courses approved by EPA are listed under Unit IV. The examinations for these approved courses under Unit IV have also been approved by EPA. EPA has three categories of course approval: full, contingent, and approved for interim accreditation. Courses approved for interim accreditation will be discussed in Unit III.

Full approval means EPA has reviewed and found acceptable the course's written submission seeking EPA approval and has conducted an on-site audit and determined that the training course meets or exceeds the Model Plan's training requirements for the relevant discipline.

Contingent approval means the Agency has reviewed the course's written submission seeking EPA approval and found the material to be acceptable (i.e., the written course materials meet the Model Plan's training course requirements). However, EPA has not yet conducted an on-site audit.

Successful completion of either a fully approved course or a contingently approved course provides full accreditation for course attendees. If EPA subsequently audits a contingently approved course and withdraws approval due to deficiencies discovered during the audit, future course offerings would no longer have EPA approval. However, withdrawal of EPA approval would not effect the accreditation of persons who took previously offered training courses, including the course audited by EPA.

EPA-approved training courses listed under Unit IV are approved on a national basis. EPA has organized Unit IV by EPA Region to assist the public in locating those training courses that are offered nearby. Training courses are listed in the Region where the training course is headquartered. Although several sponsors offer their courses in various locations throughout the United States, a large number of course sponsors provide most of their training within their own Region.

EPA-approved State accreditation programs have the authority to have more stringent accreditation requirements than the Model Plan. As a

result, some EPA-approved training courses listed under Unit IV may not meet the requirements of a particular State's accreditation program. Sponsors of training courses and persons who have received accreditation or are seeking accreditation should contact individual States to check on accreditation requirements.

A number of training courses offered by several universities before EPA issued the Model Plan equaled or exceeded the subsequently issued Model Plan's training course requirements. These courses are listed under Unit IV as being fully approved. It should be noted that persons who have successfully completed these courses are fully accredited; they are not limited only to being accredited on an interim basis.

## III. EPA Approval of Training Courses for Interim Accreditation

TSCA Title II enables EPA to permit persons to be accredited on an interim basis if they have attended previous EPA-approved asbestos training and have passed (or pass) an asbestos examination. As a result, the Agency has approved training courses offered previously for purposes of accrediting persons on an interim basis. Only those persons who have taken training courses since January 1, 1985, will be considered under these interim accreditation provisions. In addition, EPA will not grant interim accreditation to any person who takes an equivalent training course after the date on which the asbestos-in-schools rule took effect (i.e., December 14, 1987). This accreditation is interim since the person shall be considered accredited for only 1 year after the date on which the State where the person is employed establishes an accreditation program at least as stringent as the EPA Model Plan. If the State does not adopt an accreditation program within the time period required by Title II, persons with interim accreditation must become fully accredited within 1 year after the date the State was required to have established a program. These persons must take a complete EPA-approved course (see Unit II) or an EPA-approved State program's course for full accreditation. In most States, the complete course will have to be taken before autumn 1989.

Under the Model Plan, an equivalent training course for interim accreditation purposes is one that is essentially similar in length and content to the curriculum found in the Model Plan. In addition, an equivalent examination must be essentially similar to the



examination requirements found in the Model Plan.

Persons who have taken equivalent courses in their discipline for purposes of interim accreditation, and can produce evidence that they have successfully completed the course by passing an examination, are accredited on an interim basis under TSCA Title II. Evidence of successful completion of a course would include a certificate or photo identification card that showed the person completed the training course on a certain date and passed the examination.

For persons who took one of the EPA-approved courses for interim accreditation listed under Unit IV, but did not take the course's examination, these persons may become accredited on an interim basis by passing an examination at an EPA-funded training center. These EPA-funded training centers are listed under Unit IV. Before taking the examination, persons must provide evidence to the EPA-funded center that they previously had taken one of the training courses listed under Unit IV that is approved by EPA for interim accreditation.

The New York City Department of Environmental Protection, Bureau of Air Resources has a training program for asbestos abatement workers and contractors/supervisors that does meet the requirements for EPA approval of training courses for interim accreditation (see Unit IV, Region II). As a result, persons who have met the training and examination requirements of the New York City Abatement Worker (i.e., "handler") or Contractor/Supervisor program between April 1, 1987 and December 14, 1987, are accredited as listed under Unit IV on an interim basis.

Courses approved by EPA as of January 1989 for interim accreditation are listed under Unit IV. Examinations offered by these courses also are approved for purposes of interim accreditation.

#### IV. List of EPA-Approved State Accreditation Programs and Training Courses

The sixth cumulative listing of EPA-approved State accreditation programs and training courses are listed in Unit IV. As discussed above, quarterly notifications of EPA approval of State accreditation programs and EPA approval of training courses will be published in subsequent Federal Register notices. The closing date for the acceptance of submissions to EPA for inclusion in this sixth notice was January 1989. Omission from this list does not imply disapproval by EPA, nor

does the order of the courses reflect priority or quality. The format of the notification lists first the State accreditation programs approved by EPA, followed by EPA-approved training courses listed by Region. The name, address, phone number, and contact person is provided for each training provider followed by the courses and type of course approval (i.e., full, contingent, or for interim purposes). Unless otherwise specified by an alternative date, interim approvals are issued from January 1, 1985.

As of January 31, 1989, a total of 352 training providers are offering 814 EPA-approved training courses for accreditation under TSCA Title II. There are 275 asbestos abatement worker courses, 188 contractor/supervisor courses, 124 inspector/management planner courses, 10 inspector only courses, and 12 project designer courses. Fourteen States have either interim or fully approved State accreditation programs in one or more disciplines.

The EPA-funded model course for inspectors and management planners is available in final form. In addition, a previous EPA developed course for asbestos abatement contractors and supervisors has been revised and is available in final form for interested parties that plan to offer training courses. A fee for each course will be charged to cover the reproduction costs for the written and visual aid materials. Interested parties should contact the following firm to receive copies of the training courses: ATLAS Federal Services, Inc., EPA AHERA Program, 6011 Executive Boulevard, Rockville, MD 20852, Phone number: (301) 468-1916.

The following is the cumulative list of EPA-approved State accreditation programs and training courses:

#### Approved State Accreditation Programs

##### (1)(a) State: Alaska.

State Agency: Department of Labor, Address: P.O. Box 1149, Juneau, AK 99802, Contact: Richard Arab, Phone: (907) 465-4856.

##### (b) Approved Accreditation Program Disciplines:

Abatement Worker (interim from 10/1/85).

Contractor/Supervisor (interim from 10/1/85).

##### (2)(a) State: Arkansas.

State Agency: Arkansas Dept. of Pollution Control and Ecology, Address: 8001 National Dr., P.O. Box 9583, Little Rock, AR 72209, Contact: Wilson Tolefree, Phone: (501) 562-7444.

##### (b) Approved Accreditation Program Disciplines:

Abatement Worker (interim from 11/22/85).

Abatement Worker (full from 1/22/88). Contractor/Supervisor (interim from 11/22/85).

Contractor/Supervisor (full from 1/22/88).

Arkansas Department of Pollution Control and Ecology, EPA-Approved Courses for Abatement Workers and Contractor/Supervisors

(i)(a) Training Provider: Arkansas Laborers Training Fund.

Address: 4501 West 61st St., Little Rock, AR 72209, Contact: W. Rudy Osborne, Phone: (501) 562-5953.

(b) Approved Course:

Abatement Worker.

(c) Date of Certification: 5/2/88.

(ii)(a) Training Provider: Asbestos Training & Employment, Inc.

Address: 809 East 11th St., Michigan City, IN 46360, Contact: Bruce H. Connell, Phone: (219) 874-7348.

(b) Approved Courses:

Abatement Worker.

Contractor/Supervisor.

(c) Date of Certification: 5/18/88.

(iii)(a) Training Provider: Critical Environmental Training, Inc.

Address: 5815 Gulf Fwy., Houston, TX 77023, Contact: Charles M. Flanders, Phone: (713) 921-8921.

(b) Approved Courses:

Abatement Worker.

Contractor/Supervisor.

(c) Date of Certification: 9/12/88.

(iv)(a) Training Provider:

Environmental Institute.

Address: 350 Franklin Rd., Suite 300, Marietta, GA 30067, Contact: Eva Clay, Phone: (404) 425-2000.

(b) Approved Course:

Contractor/Supervisor.

(c) Date of Certification: 10/7/88.

(v)(a) Training Provider:

Environmental Technologies.

Address: P.O. Box 21243, Little Rock, AR 72221, Contact: Phyllis Moore, Phone: (501) 569-3248.

(b) Approved Courses:

Abatement Worker.

Contractor/Supervisor.

(c) Date of Certification: 3/16/88.

(vi)(a) Training Provider: Hall-Kimbrell Environmental Services.

Address: P.O. Box 307, Lawrence, KS 66044, Contact: Patrick Shrepf, Phone: (913) 749-2381.

(b) Approved Courses:



**Abatement Worker.****Contractor/Supervisor.**(c) *Date of Certification:* 6/8/88.(vii)(a) *Training Provider:*

Professional Asbestos Training Service.

Address: P.O. Box 45233, Little Rock, AR 72214, Contact: Harold Lewis, Phone: (501) 223-3230.

(b) *Approved Courses:***Abatement Worker.****Contractor/Supervisor.**(c) *Date of Certification:* 4/18/88.(viii)(a) *Training Provider:* University of Arkansas.

Address: 521 South Razorback Rd., Fayetteville, AR 72701, Contact: Greg Weeks, Phone: (501) 575-6175.

(b) *Approved Course:***Abatement Worker.**(c) *Date of Certification:* 10/7/88.(3)(a) *State:* Illinois.

State Agency: Illinois Dept. of Public Health, Address: 525 West Jefferson St., 3rd. Floor, Springfield, IL 62702, Contact: Don Anderson, Phone: (217) 782-5830.

(b) *Approved Accreditation Program Disciplines:***Abatement Worker** (interim from 11/29/85).(4)(a) *State:* Iowa.

State Agency: Iowa Department of Education Administrative Finance School Plant Facilities, Address: Grimes State Office Bldg., Des Moines, IA 50319-0146, Contact: C. Milt Wilson, Phone: (515) 281-4743.

(b) *Approved Accreditation Program Disciplines:***Abatement Worker** (full from 11/30/87).**Contractor/Supervisor** (full from 11/30/87).**Inspector** (full from 11/30/87).**Inspector/Management Planner** (full from 11/30/87).**Project Designer** (full from 11/30/87).(5)(a) *State:* Kansas.

State Agency: Kansas Dept. of Health and Environment, Environmental Toxicology Section, Address: Forbes Field Building 321, Topeka, KS 66620-7430, Contact: John C. Irwin, Phone: (913) 296-1500.

(b) *Approved Accreditation Program Disciplines:***Abatement Worker** (interim from 11/6/86).\***Abatement Worker** (full from 12/16/87).\***Contractor/Supervisor** (interim from 11/6/86).**Contractor/Supervisor** (full from 12/16/87).(6)(a) *State:* Massachusetts.

State Agency: Massachusetts Department of Labor &amp; Industries; Division of Occupational Hygiene, Address: 1001 Watertown St., West Newton, MA 02165, Contact: Dick Levine, Phone: (617) 727-3567.

(b) *Approved Accreditation Program Disciplines:***Abatement Worker** (full from 10/30/87).**Contractor/Supervisor** (full from 10/30/87).**Inspector** (full from 10/30/87).**Inspector/Management Planner** (full from 10/30/87).**Project Designer** (full from 10/30/87).

Massachusetts Department of Health, EPA Approved Courses for Abatement Workers, Contractors/Supervisors, Inspector/Management Planners, and Project Designers

(i)(a) *Training Provider:* Abatement Technical Corporation, c/o ECO Systems, Inc.

Address: 5 North Meadow Rd., Medfield, MA 02052, Contact: Joseph C. Mohen, Phone: (508) 795-7834.

(b) *Approved Course:***Contractor/Supervisor.**(c) *Date of Certification:* 4/28/88.(ii)(a) *Training Provider:* Asbestos Workers Union Local #6.

Address: 1725 Revere Beach Pwy., Everett, MA 02149, Contact: James P. McCourt, Phone: (617) 387-2679.

(b) *Approved Courses:***Abatement Worker.****Contractor/Supervisor.**(c) *Date of Certification:* 4/25/88.(iii)(a) *Training Provider:* Astoria Industries.

Address: 538 Stewart Ave., Brooklyn, NY 11222, Contact: Gary Dipaolo, Phone: (718) 387-0011.

(b) *Approved Course:***Abatement Worker.**(c) *Date of Certification:* 4/8/88.(iv)(a) *Training Provider:* BCM Engineering.

Address: 1 Plymouth Meeting, Plymouth Meeting, PA 19462, Contact: Peter R. Charrington, Phone: (215) 825-3800.

(b) *Approved Courses:***Inspector/Management Planner.****Project Designer.**(c) *Date of Certification:* 4/28/88.(v)(a) *Training Provider:* Con-Test, Inc.

Address: P.O. Box 591, East Longmeadow, MA 01028, Contact: Brenda Bolduc, Phone: (413) 525-1198.

*Approved Courses:***Abatement Worker.****Contractor/Supervisor.****Inspector/Management Planner.**(c) *Date of Certification:* 2/25/88.(vi)(a) *Training Provider:* Dennison Environmental, Inc.

Address: 35 Industrial Hwy., Woburn, MA 01880, Contact: Joan Ryan, Phone: (617) 932-9400.

(b) *Approved Courses:***Abatement Worker.****Contractor/Supervisor.**(c) *Date of Certification:* 4/8/88.(vii)(a) *Training Provider:*

Environmental Training Services.

Address: 12 Walnut Hill Park, Woburn, MA 01801, Contact: Kenneth P. Martin, Jr., Phone: (617) 389-0348.

(b) *Approved Courses:***Abatement Worker.****Contractor/Supervisor.**(c) *Date of Certification:* 4/8/88.(viii)(a) *Training Provider:* Hall-Kimbrell Environmental Services.

Address: 4340 West 15th St., Lawrence, KS 66046, Contact: Alice Hart, Phone: (800) 346-2860.

(b) *Approved Courses:***Abatement Worker.****Contractor/Supervisor.****Inspector/Management Planner.****Project Designer.**(c) *Date of Certification:* 4/25/88.(ix)(a) *Training Provider:* Howard School of Public Health.

Address: 677 Huntington Ave., Boston, MA 02115, Contact: William A. Burgass, Phone: (617) 732-1171.

(b) *Approved Courses:***Contractor/Supervisor.****Inspector/Management Planner.**(c) *Date of Certification:* 2/25/88.(x)(a) *Training Provider:* Institute for Environmental Education.

Address: 208 West Cummings Park, Woburn, MA 01801, Contact: Lisa Stammer, Phone: (617) 935-0664.

(b) *Approved Courses:***Abatement Worker.****Contractor/Supervisor.****Inspector/Management Planner.**(c) *Date of Certification:* 4/28/88.(xi)(a) *Training Provider:* JF Walton & Co.

Address: 201 Marginal St., Chelsea, MA 02150, Contact: Richard King, Phone: (617) 884-0350.

(b) *Approved Course:***Abatement Worker.**(c) *Date of Certification:* 3/28/88.(xii)(a) *Training Provider:* Kaselaan & D'Angelo Associates.

\* Applies only to workers who have taken the Kansas Contractor/Supervisor course and passed the State's worker exam.



Address: 515 Grove St., Haddon Heights, NJ 08035, Contact: Paul Heffernan, Phone: (212) 213-1188.

(b) *Approved Courses:*  
Abatement Worker.

Contractor/Supervisor.

(c) *Date of Certification:* 2/25/88.

(xiii)(a) *Training Provider:* N.A.A.C.O.

Address: 757 A Turnpike St., North Andover, MA 01845, Contact: Jerome W. Vitta, Phone: (617) 681-8711.

(b) *Approved Courses:*

Abatement Worker.

Contractor/Supervisor.

(c) *Date of Certification:* 3/18/88.

(xiv)(a) *Training Provider:* National Training Fund of Sheetmetal & Air Conditioning Industry/Workers Institute for Safety & Health.

Address: 1126 16th St., NW, Washington, DC 20036, Contact: Matthew Gillan, Phone: (202) 887-1980.

(b) *Approved Courses:*

Abatement Worker.

Contractor/Supervisor.

(c) *Date of Certification:* 4/28/88.

(xv)(a) *Training Provider:* New England Laborers' Training Trust Fund.

Address: 37 East St., Hopkinton, MA 01748-2699, Contact: James Merloni, Jr. Phone: (617) 435-6316.

(b) *Approved Course:*

Abatement Worker.

(c) *Date of Certification:* 2/25/88.

(xvi)(a) *Training Provider:* Tufts University Asbestos Information Center.

Address: 474 Boston Ave., Medford, MA 02155, Contact: Brenda Cole, Phone: (617) 381-3531.

(b) *Approved Courses:*

Abatement Worker.

Contractor/Supervisor.

Inspector/Management Planner.

(c) *Date of Certification:* 3/16/88.

(7) (a) *State:* Michigan.

State Agency: State of Michigan Dept. of Public Health, Address: 3500 North Logan, P.O. Box 30035, Lansing, MI 48909, Contact: Bill DeLiefde, Phone: (517) 335-8186.

(b) *Approved Accreditation Program Discipline:*

Abatement Worker (interim from 7/2/86).

(8)(a) *State:* New Jersey.

State Agency: State of New Jersey Dept. of Health, Address: CN 360, Trenton, NJ 08625-0360, Contact: James Brownlee, Phone: (609) 984-2193.

(b) *Approved Accreditation Program Disciplines:*

Abatement Worker (full from 6/18/85).

Contractor/Supervisor (full from 6/18/85).

# *New Jersey Department of Health, EPA-Approved Courses for Abatement Workers and Contractors/Supervisors*

\*Note.—New Jersey approved course providers who present the training in another State must develop their own examination. They must also submit a detailed statement about the development of the course examination, as required by the Model Plan, to the Regional Asbestos Coordinator in their Region for EPA approval.

(i)(a) *Training Provider:* A & S Insulation Co., Inc.

Address: 2213 North Delsea Dr., Vineland, NJ 08360, Contact: William Clark, Phone: (609) 692-0883.

(b) *Approved Courses:*

Abatement Worker.

Contractor/Supervisor.

(c) *Date of Certification:* 5/20/85.

(ii)(a) *Training Provider:* Alternative Ways.

Address: 100 Essex Ave., Ballmawr, NJ 08031, Contact: John Smith, Phone: (609) 933-3300.

(b) *Approved Courses:*

Abatement Worker.

Contractor/Supervisor.

(c) *Date of Certification:* 4/25/85.

(iii)(a) *Training Provider:* Asbestos Training Academy.

Address: 218 Central Hwy., Pennsauken, NJ 08109, Contact: Marianne Brady, Phone: (609) 488-9200.

(b) *Approved Courses:*

Abatement Worker.

Contractor/Supervisor.

(c) *Date of Certification:* 5/1/88.

(iv)(a) *Training Provider:* Asbestos Training Institute—HRF, Inc.

Address: 247 Hayler St., South Hackensack, NJ 07606, Contact: Robert Tetzlaff, Phone: (201) 489-3200.

(b) *Approved Courses:*

Abatement Worker.

Contractor/Supervisor.

(c) *Date of Certification:* 3/4/87.

(v)(a) *Training Provider:* Asbestos Worker Local No. 32.

Address: 870 Broadway, Newark, NJ 07104, Contact: Paule Ielmini, Phone: (201) 485-3626.

(b) *Approved Courses:*

Abatement Worker.

Contractor/Supervisor.

(c) *Date of Certification:* 5/8/87.

(vi)(a) *Training Provider:* Association of Wall and Ceiling Industries.

Address: 25 K St., NE., Washington, DC 20002, Contact: Carol Paquin, Phone: (202) 783-2924.

(b) *Approved Courses:*

Abatement Worker.

Contractor/Supervisor.

(c) *Date of Certification:* 6/17/87.

(vii)(a) *Training Provider:* BCM Eastern, Inc.

Address: One Plymouth Meeting Mall, Plymouth Meeting, PA 19462, Contact: Robert Ferguson, Phone: (215) 825-3800.

(b) *Approved Courses:*

Abatement Worker.

Contractor/Supervisor.

(c) *Date of Certification:* 6/7/87.

(viii)(a) *Training Provider:* Building Laborers of N.J.—Training Center.

Address: P.O. Box 163, Jamesburg, NJ 08831, Contact: Emmanuel Riggi, Phone: (201) 521-0200.

(b) *Approved Courses:*

Abatement Worker.

Contractor/Supervisor.

(c) *Date of Certification:* 7/19/85.

(ix)(a) *Training Provider:* Certified Abatement Technologies, Inc.

Address: 47 Midland Ave., Elmwood Park, NJ 07407, Contact: Daniel Curtin, Phone: (201) 796-9589.

(b) *Approved Courses:*

Abatement Worker.

Contractor/Supervisor.

(c) *Date of Certification:* 6/3/87.

(x)(a) *Training Provider:* E.I. DuPont deNemours and Co.

Address: Chamber Works, Deepwater, NJ 08023, Contact: Charles Battle, Phone: (609) 540-2434.

(b) *Approved Courses:*

Abatement Worker.

Contractor/Supervisor.

(c) *Date of Certification:* 5/1/87.

(xi)(a) *Training Provider:* Hunter College of Health Sciences.

Address: 425 East 25th St., New York, NY 10010, Contact: Jack Caravanos, Phone: (212) 481-4352.

(b) *Approved Courses:*

Abatement Worker.

Contractor/Supervisor.

(c) *Date of Certification:* 5/23/85.

(xii)(a) *Training Provider:* Corporation.

Address: 336 West Anaheim St., Wilmington, CA 90744, Contact: Ron Freeman, Phone: (213) 830-1720.

(b) *Approved Courses:*

Abatement Worker.

Contractor/Supervisor.

(c) *Date of Certification:* 8/29/85.

(xiii)(a) *Training Provider:* International Association of Heat and Frost Insulators and Asbestos Workers Local No. 14.



Address: 6513 Bustleton Ave.,  
Philadelphia, PA 19149, Contact:  
James Aikens, Phone: (215) 533-0395.

(b) *Approved Courses:*

Abatement Worker. Contractor/  
Supervisor.

(c) *Date of Certification:* 8/9/85.

(xiv)(a) International Association of  
Heat and Frost Insulators and Asbestos  
Workers Local No. 42.

Address: 1188 River Rd., New Castle, DE  
19720, Contact: Robert Holden, Phone:  
(302) 328-4203.

(b) *Approved Courses:*

Abatement Worker.  
Contractor/Supervisor.

(c) *Date of Certification:* 10/30/85.

(xv)(a) International Association of  
Heat and Frost Insulators and Asbestos  
Workers Local No. 89.

Address: 2733 Nottingham Way,  
Trenton, NJ 08619, Contact: Charles  
DaBronzo, Phone: (609) 587-0092.

(b) *Approved Courses:*

Abatement Worker.  
Contractor/Supervisor.

(c) *Date of Certification:* 5/13/86.

(xvi)(a) *Training Provider:* Kaselaan  
and D'Angelo Associates.

Address: 215 White Horse Pike, Hadden  
Heights, NJ 08035, Contact: Elizabeth  
Vanek, Phone: (609) 547-6500.

(b) *Approved Courses:*

Abatement Worker.  
Contractor/Supervisor.

(c) *Date of Certification:* 5/8/85.

(xvii)(a) *Training Provider:* Mid-  
Atlantic Asbestos Training Center  
UMDNJ.

Address: 675 Hoes Ln., Piscataway, NJ  
08854, Contact: Lee Laustsen, Phone:  
(201) 463-4500.

(b) *Approved Courses:*

Abatement Worker.  
Contractor/Supervisor.

(c) *Date of Certification:* 7/1/86.

(xviii)(a) *Training Provider:* National  
Asbestos Council (NAC) Training Dept.

Address: 1777 Northeast Expressway,  
Suite 150, Atlanta, GA 30329, Contact:  
Tom Laubenthal, Phone: (404) 633-  
2622.

(b) *Approved Courses:*

Abatement Worker.  
Contractor/Supervisor.

(c) *Date of Certification:* 1/13/87.

(xix)(a) National Asbestos Training  
Institute.

Address: 1776 Bloomsbury Ave., Ocean,  
NJ 07712, Contact: Doris Adler, Phone:  
(201) 918-0610.

(b) *Approved Courses:*

Abatement Worker.  
Contractor/Supervisor.

(c) *Date of Certification:* 5/3/85.

(xx)(a) *Training Provider:* New York/  
New Jersey White Lung Assoc.

Address: 12 Warren St., New York, NY  
10007, Contact: Beth Garner, Phone:  
(212) 619-2270.

(b) *Approved Courses:*

Abatement Worker.  
Contractor/Supervisor.

(c) *Date of Certification:* 5/21/85.

(xxi)(a) *Training Provider:*  
Northeastern Analytical.

Address: 234 Route 70, Medford, NJ  
08055, Contact: Skip Harris, Phone:  
(609) 654-1441.

(b) *Approved Courses:*

Abatement Worker.  
Contractor/Supervisor.

(c) *Date of Certification:* 5/20/85.

(9)(a) *State:* Oregon.

State Agency: State of Oregon Dept. of  
Environmental Quality, Address: 811  
Southwest Sixth Ave., Portland, OR  
97204, Contact: Wendy Simms, Phone:  
(503) 229-6414.

(b) *Approved Accreditation Program  
Disciplines:*

Abatement Worker (full from 9/23/88).  
Contractor/Supervisor (full from 9/23/  
88).

*Oregon Department of Environmental  
Quality, EPA-Approved Courses for  
Abatement Workers and Contractor/  
Supervisors*

(i)(a) *Training Provider:* Hall-Kimbrell  
Environmental Services.

Address: 5319 Southwest Westgate,  
Suite 239, Portland, OR 97221,  
Contact: Peter Clark, Phone: (503) 292-  
9406.

(b) *Approved Course:*

Abatement Worker.

(c) *Date of Certification:* 12/28/88.

(ii)(a) *Training Provider:* Hazcon, Inc.

Address: 9500 Southwest Barbur,  
Portland, OR 97219, Contact: Tom  
Natsh, Phone: (503) 244-8045.

(b) *Approved Courses:*

Abatement Worker.  
Contractor/Supervisor.

(c) *Date of Certification:* 9/23/88.

(iii)(a) *Training Provider:* Laborers'/  
AGC Apprenticeship & Training  
Program.

Address: Route 5, Box 325A, Corvallis,  
OR 97330, Contact: Bill Duke, Phone:  
(503) 745-5513.

(b) *Approved Course:*

Abatement Worker.

(c) *Date of Certification:* 9/23/88.

(iv)(a) *Training Provider:* Marine &  
Environmental Testing, Inc.

Address: P.O. Box 1142, Beaverton, OR  
97075, Contact: Martin Finkel, Phone:  
(503) 286-2950.

(b) *Approved Course:*

Abatement Worker.

(c) *Date of Certification:* 12/3/88.

(v)(a) *Training Provider:* National  
Training Center, Inc.

Address: 123 Northwest 2nd Ave., Suite  
309, Portland, OR 97209, Contact: Paul  
Franklin, Phone: (503) 224-8834.

(b) *Approved Course:*

Abatement Worker.

(c) *Date of Certification:* 9/23/88.

(vi)(a) *Training Provider:* Northwest  
Envirocon, Inc.

Address: P.O. Box 22006, Milwaukie, OR  
97222, Contact: Sheila Wanta, Phone:  
(503) 659-8899.

(b) *Approved Courses:*

Abatement Worker.  
Contractor/Supervisor.

(c) *Date of Certification:* 12/14/88.

(10)(a) *State:* Rhode Island.

State Agency: State of Rhode Island &  
Providence Plantations, Department of  
Health, Address: 206 Cannon Bldg., 75  
Davis St., Providence, RI 02908,  
Contact: James C. Hickey, Phone: (401)  
277-3601.

(b) *Approved Accreditation Program  
Disciplines:*

Abatement Worker (full from 2/4/88).  
Contractor/Supervisor (full from 2/4/  
86).

*Rhode Island Department of Health,  
EPA-Approved Courses for Abatement  
Workers and Contractors/Supervisors*

(i)(a) *Training Provider:* Analytical  
Testing Services.

Address: 180 Weeden St., Pawtucket, RI  
02860, Contact: Robert Weisberg/  
Marie Stoeckel, Phone: (401) 723-7973.

(b) *Approved Course:*

Contractor/Supervisor.

(c) *Date of Certification:* 12/10/86.

(ii)(a) *Training Provider:* Community  
College of Rhode Island.

Address: 1762 Louisquisset Park,  
Lincoln, RI 02865, Contact: Americo  
Ottavino, Phone: (401) 333-7060.

(b) *Approved Course:*

Abatement Worker.

(c) *Date of Certification:* 11/13/87.

(iii)(a) *Training Provider:* Con-Test,  
Inc.

Address: P.O. Box 591, East  
Longmeadow, MA 01028, Contact:  
Brenda Bolduc, Phone: (413) 525-1198.

(b) *Approved Courses:*

Abatement Worker.  
Contractor/Supervisor.



(c) *Date of Certification*: 3/1/86.  
 (iv)(a) *Training Provider*: Covino Environmental Consultants, Inc.  
 Address: 12 Walnut Hill Park, Woburn, MA 01801, Contact: Sam Covino, Phone: (617) 933-2555.  
 (b) *Approved Courses*:  
 Abatement Worker.  
 Contractor/Supervisor.  
 (c) *Date of Certification*: 1/15/87.  
 (v)(a) *Training Provider*: Georgia Tech Research Institute, Environmental Health & Safety Division.  
 Address: Room 129, O'Keefe Building, Atlanta, GA 30332, Contact: Mark Demyanek, Phone: (404) 894-3806.  
 (b) *Approved Courses*:  
 Abatement Worker.  
 Contractor/Supervisor.  
 (c) *Date of Certification*: 7/22/88.  
 (vi)(a) *Training Provider*: Heat Frost and Asbestos Union Local #6.  
 Address: 1725 Revere Beach Pwy., Everett, MA 02149, Contact: Bud McCort, Phone: (617) 387-0809.  
 (b) *Approved Courses*:  
 Abatement Worker.  
 Contractor/Supervisor.  
 (c) *Date of Certification*: 12/8/86.  
 (vii)(a) *Training Provider*: Institute for Environmental Education.  
 Address: 208 West Cummings Park, Woburn, MA 01801, Contact: Lisa Stammer, Phone: (617) 935-0664.  
 (b) *Approved Courses*:  
 Abatement Worker.  
 Contractor/Supervisor.  
 (c) *Date of Certification*: 9/9/87.  
 (viii)(a) *Training Provider*: NAACO, Inc.  
 Address: 757 A Turnpike St., North Andover, MA 01845, Contact: Martin Levitt, Phone: (617) 681-8711.  
 (b) *Approved Courses*:  
 Abatement Worker.  
 Contractor/Supervisor.  
 (c) *Date of Certification*: 4/28/88.  
 (ix)(a) *Training Provider*: National Asbestos Council (NAC), Training Dept.  
 Address: 1777 Northeast Expressway, Suite 150, Atlanta, GA 30329, Contact: Tom Laubenthal, Phone: (404) 633-2622.  
 (b) *Approved Course*:  
 Abatement Worker.  
 (c) *Date of Certification*: 9/5/86.  
 (x)(a) *Training Provider*: National Surface Cleaning, Inc.  
 Address: 49 Danton Dr., Methuen, MA 01844, Contact: Anthony Mesiti, Phone: (617) 686-6417.  
 (b) *Approved Courses*:  
 Abatement Worker.

Contractor/Supervisor.  
 (c) *Date of Certification*: 10/3/86.  
 (xi)(a) *Training Provider*: National Training Fund of Sheetmetal & Air Conditioning Industry/Workers' Institute for Safety & Health.  
 Address: 1126 16th St. NW., Washington, DC 20036, Contact: Matthew Gillan, Phone: (202) 887-1980.  
 (b) *Approved Course*:  
 Abatement Worker.  
 (c) *Date of Certification*: 2/2/88.  
 (xii)(a) *Training Provider*: New England Laborers' Training Trust Fund.  
 Address: 37 East St., Hopkinton, MA 01748, Contact: James Merloni, Phone: (617) 435-6316.  
 (b) *Approved Course*:  
 Abatement Worker.  
 (c) *Date of Certification*: 7/1/86.  
 (xiii)(a) *Training Provider*: Quality Control Service, Inc.  
 Address: 1 Andrew Cir., North Andover, MA 01845, Contact: Ajay Pathak, Phone: (508) 475-0623.  
 (b) *Approved Courses*:  
 Abatement Worker.  
 Contractor/Supervisor.  
 (c) *Date of Certification*: 4/27/88.  
 (xiv)(a) *Training Provider*: Tufts University, Asbestos Information Center.  
 Address: 474 Boston Ave., Medford, MA 02155, Contact: Brenda Cole, Phone: (617) 381-3531.  
 (b) *Approved Courses*:  
 Abatement Worker.  
 Contractor/Supervisor.  
 (c) *Date of Certification*: 7/1/86.  
 (11)(a) *State*: South Dakota.  
 State Agency: Dept. of Water & Natural Resources, Division of Air Quality & Solid Waste, Address: Joe Foss Building, 523 East Capitol St., Pierre, SD 57501, Contact: Terry Jorgenson, Phone: (605) 773-3153.  
 (b) *Approved Accreditation Program Disciplines*:  
 Abatement Worker (full from 9/15/88).  
 Contractor/Supervisor (full from 9/15/88).  
 Inspector/Management Planner (full from 9/15/88).  
 Project Designer (full from 9/15/88).  
 South Dakota Department of Water & Natural Resources, EPA-Approved Courses for Abatement Workers, Contractors/Supervisors, Inspector/Management Planners, and Project Designers  
 (i)(a) *Training Provider*: Black Hills Special Services Cooperative.

Address: P.O. Box 218, Sturgis, SD 57785, Contact: Jim Doolittle, Phone: (605) 347-4467.  
 (b) *Approved Courses*:  
 Contractor/Supervisor.  
 Inspector/Management Planner.  
 (c) *Date of Certification*: 9/14/88.  
 (ii)(a) *Training Provider*: South Dakota State University, College of Engineering.  
 Address: P.O. Box 2218, Brookings, SD 57007-0597, Contact: James Ceglian, Phone: (605) 688-4101.  
 (b) *Approved Courses*:  
 Contractor/Supervisor.  
 Inspector/Management Planner.  
 (c) *Date of Certification*: 9/14/88.  
 (12)(a) *State*: Virginia.  
 State Agency: Commonwealth of Virginia, Dept. of Commerce, Address: 3600 West Broad St., Richmond, VA 23230-4917, Contact: Peggy J. Wood, Phone: (804) 367-8500.  
 (b) *Approved Accreditation Program Disciplines*:  
 Abatement Worker (full from 7/1/88).  
 Contractor/Supervisor (full from 7/1/88).  
 Inspector/Management Planner (full from 7/1/88).  
 Project Designer (full from 7/1/88).  
 Virginia Department of Commerce, EPA-Approved Courses for Abatement Workers, Contractors/Supervisors, Inspector/Management Planners, and Project Designers  
 (i)(a) *Training Provider*: Alice Hamilton Occupational Health Center.  
 Address: 410 7th St., SE., 2nd Floor, Washington, DC 20003, Contact: Brian Christopher, Phone: (202) 543-0005.  
 (b) *Approved Courses*:  
 Abatement Worker.  
 Contractor/Supervisor.  
 Inspector/Management Planner.  
 (c) *Date of Certification*: 3/2/88.  
 (ii)(a) *Training Provider*: Asbestos Analytical Association.  
 Address: 3208-B George Washington Hwy., Portsmouth, VA 23704, Contact: Carol Holden, Phone: (804) 397-8939.  
 (b) *Approved Courses*:  
 Abatement Worker.  
 Contractor/Supervisor.  
 (c) *Date of Certification*: 7/27/88.  
 (iii)(a) *Training Provider*: Biospherics, Inc.  
 Address: 12051 Indian Creek Court, Beltsville, MD 20705, Contact: Jean Fisher, Phone: (301) 369-3900.  
 (b) *Approved Courses*:  
 Abatement Worker.  
 Contractor/Supervisor.



(c) *Date of Certification*: 9/13/88.  
(iv)(a) *Training Provider*: E.I. DuPont  
DeNemours & Co., Inc.

Address: Spruance Plant, P.O. Box  
27001, Richmond, VA 23261, Contact:  
Clarence Mihal, Phone: (804) 743-2948.

(b) *Approved Course*:

Abatement Worker.

(c) *Date of Certification*: 5/11/88.

(v)(a) *Training Provider*: Fluor Daniel.

Address: The Daniel Bldg., 301 North  
Main St., Greenville, SC 29601,  
Contact: Rick Florence, Phone: (803)  
298-2166.

(b) *Approved Courses*:

Abatement Worker.

Contractor/Supervisor.

(c) *Date of Certification*: 6/24/88.

(vi)(a) *Training Provider*: Hall-  
Kimbrell Environmental Services.

Address: 4840 West 15th St., P.O. Box  
307, Lawrence, KS 66046, Contact:  
Steve Davis, Phone: (913) 749-2381.

(b) *Approved Courses*:

Abatement Worker.

Contractor/Supervisor.

(c) *Date of Certification*: 5/23/88.

(vii)(a) *Training Provider*: Ind-Tra-Co.,  
Ltd.

Address: 18 South 15th St., Richmond,  
VA 23223, Contact: Fred Breive,  
Phone: (804) 648-7836.

(b) *Approved Courses*:

Abatement Worker.

Contractor/Supervisor.

Inspector/Management Planner.

(c) *Date of Certification*: 3/7/88.

(viii)(a) *Training Provider*: Industrial  
Training & Support Services.

Address: P.O. Box 496, Lightfoot, VA  
23090, Contact: Virginia Graham,  
Phone: (804) 565-3308.

(b) *Approved Course*:

Abatement Worker.

(c) *Date of Certification*: 10/22/88.

(ix)(a) *Training Provider*: Laborers'  
District Council of Virginia Training  
Trust Fund.

Address: 4191 Rochambeau Dr.,  
Williamsburg, VA 23185, Contact: Roy  
Brightwell, Phone: (804) 564-8148.

(b) *Approved Course*:

Abatement Worker.

(c) *Date of Certification*: 8/8/88.

(x)(a) *Training Provider*: Medical  
College of Virginia, Dept. of Preventive  
Medicine.

Address: P.O. Box 212, Richmond, VA  
23298, Contact: Leonard Vance,  
Phone: (804) 786-9785.

(b) *Approved Courses*:

Contractor/Supervisor.

Inspector/Management Planner.

(c) *Date of Certification*: 12/8/87.

(xi)(a) *Training Provider*:

Metropolitan Laboratories.

Address: P.O. Box 8921, Norfolk, VA  
23503, Contact: Ethel Holmes, Phone:  
(804) 583-9444.

(b) *Approved Courses*:

Abatement Worker.

Contractor/Supervisor.

(c) *Date of Certification*: 8/4/88.

(xii)(a) *Training Provider*: Norfolk  
Shipbuilding & Dry Dock Co.

Address: P.O. Box 2100, Norfolk, VA  
23501, Contact: Thomas Beacham,  
Phone: (804) 494-2940.

(b) *Approved Course*:

Abatement Worker.

(c) *Date of Certification*: 6/15/88.

(xiii)(a) *Training Provider*: Old  
Dominion University.

Address: Office of Health Sciences,  
Norfolk, VA 23529, Contact: Shirley  
Glover, Phone: (804) 683-4256.

(b) *Approved Course*:

Abatement Worker.

(c) *Date of Certification*: 6/8/88.

(xiv)(a) *Training Provider*: Quality  
Specialties, Inc.

Address: 109 15th Ave., Hopewell, VA  
23860, Contact: Lewis Stevenson,  
Phone: (804) 748-9606.

(b) *Approved Course*:

Abatement Worker.

(c) *Date of Certification*: 5/3/88.

(xv)(a) *Training Provider*: S.G. Brown,  
Inc.

Address: 2701 Sonic Dr., Virginia Beach,  
VA 23334, Contact: George Torrence,  
Phone: (804) 468-0027.

(b) *Approved Course*:

Abatement Worker.

(c) *Date of Certification*: 6/10/88.

(xvi)(a) *Training Provider*: The  
Francis L. Greenfield Institute.

Address: Route 6344, P.O. Box 217,  
Sterling, VA 22170, Contact: Benjamin  
Bostic, Phone: (703) 450-5950.

(b) *Approved Course*:

Abatement Worker.

(c) *Date of Certification*: 10/10/88.

(xvii)(a) *Training Provider*: University  
of Virginia, National Asbestos Council,  
Division of Continuing Education.

Address: 106 Midmont Lake,  
Charlottesville, VA 22903, Contact:  
Gregory Pels, Phone: (804) 924-7114.

(b) *Approved Course*:

Abatement Worker.

(c) *Date of Certification*: 3/7/88.

(xviii)(a) *Training Provider*: Waco,  
Inc.

Address: Highway 925, N, Waldorf, MD  
20601, Contact: Wayne Cooper, Phone:  
(301) 843-2488.

(b) *Approved Courses*:

Abatement Worker.

Contractor/Supervisor.

(c) *Date of Certification*: 10/31/88.

(xix)(a) *Training Provider*: White Lung  
Association.

Address: 1114 Cathedral St., Baltimore,  
MD 21201, Contact: James Fite, Phone:  
(301) 727-6029.

(b) *Approved Course*:

Inspector/Management Planner.

(c) *Date of Certification*: 7/11/88.

(13)(a) *State*: Washington.

State Agency: State of Washington Dept.  
of Labor and Industries, Division of  
Industrial Safety and Health.

Address: 805 Plum SE, Olympia, WA  
98504, Contact: Steve Cant, Phone:  
(206) 753-6497.

(b) *Approved Accreditation Program  
Disciplines*:

Abatement Worker (interim from 11/  
21/85).

Contractor/Supervisor (interim from  
11/21/85).

*EPA-Approved Training Courses*

*REGION I—Boston, MA*

*Regional Asbestos Coordinator*: Joe  
DeCola, EPA, Region I, Air and  
Management Division (APT-2311), JFK  
Federal Building, Boston, MA 02203.  
(617) 565-3835, (FTS) 835-3835.

*List of Approved Courses*: The  
following training courses have been  
approved by EPA. The courses are listed  
under (b). This approval is subject to the  
level of certification indicated after the  
course name. Training Providers are  
listed in alphabetical order and do not  
reflect a prioritization. Approvals for  
Region I training courses and contact  
points for each, are as follows:

(1)(a) *Training Provider*: Abatement  
Technology Corporation.

Address: 1 Boston Pl, Suite 1025, Boston,  
MA 02108, Contact: Scott Keyes,  
Phone: (617) 723-3100.

(b) *Approved Course*:

Contractor/Supervisor (contingent from  
10/5/87).

(2)(a) *Training Provider*: Con-Test,  
Inc.

Address: P.O. Box 591, East  
Longmeadow, MA 01028, Contact:  
Brenda Bolduc, Phone: (413) 525-1198.

(b) *Approved Courses*:

Abatement Worker (contingent from  
10/2/87).

Abatement Worker Refresher Course  
(full from 11/22/88).

Contractor/Supervisor (contingent from  
10/2/87).



Contractor/Supervisor Refresher Course (contingent from 10/2/87).

Contractor/Supervisor Refresher Course (full from 12/21/88).

Inspector/Management Planner (contingent from 10/2/87).

Inspector/Management Planner Refresher Course (contingent from 10/2/87).

(3)(a) *Training Provider*: Enviromed Services, Inc.

Address: 25 Science Park, New Haven, CT 06515, Contact: Lawrence J. Cannon, Phone: (203) 786-5580.

(b) *Approved Courses*:

Abatement Worker (contingent from 7/8/88).

Inspector/Management Planner (contingent from 1/30/89).

(4)(a) *Training Provider*: Environmental Training Services.

Address: 12 Walnut Hill Park, Woburn, MA 01801, Contact: Kenneth P. Martin, Phone: (617) 398-0348.

(b) *Approved Course*:

Abatement Worker (contingent from 4/22/88).

(5)(a) *Training Provider*: Hygientics, Inc.

Address: 150 Causeway St., Boston, MA 02114, Contact: John W. Cowdery, Phone: (617) 723-4664.

(b) *Approved Course*:

Inspector (contingent from 10/2/87).

(6)(a) *Training Provider*: Institute for Environmental Education.

Address: 208 West Cummings Park, Woburn, MA 01801, Contact: Lisa Stammer, Phone: (617) 935-0664.

(b) *Approved Courses*:

Abatement Worker (contingent from 4/28/88).

Abatement Worker Refresher Course (full from 11/3/88).

Contractor/Supervisor (full from 9/18/87).

Contractor/Supervisor Refresher Course (full from 11/3/88).

Inspector/Management Planner (contingent from 10/2/87).

Inspector/Management Planner Refresher Course (contingent from 10/31/88).

(7)(a) *Training Provider*: International Association of Heat & Frost Insulators Asbestos Workers Union Local #33.

Address: 15 South Elm St., Wallingford, CT 06492, Contact: Joseph V. Soli, Phone: (203) 235-3547.

(b) *Approved Courses*:

Contractor/Supervisor (contingent from 7/27/88).

(8)(a) *Training Provider*: Maine Labor Group on Health, Inc.

Address: P.O. Box V, Augusta, ME 04330, Contact: Diana White, Phone: (207) 622-7823.

(b) *Approved Courses*:

Abatement Worker (contingent from 8/11/87).

Abatement Worker Refresher Course (contingent from 10/17/88).

Contractor/Supervisor (contingent from 5/18/87).

Contractor/Supervisor Refresher Course (full from 3/26/88).

(9)(a) *Training Provider*: New England Laborers' Training Trust Fund.

Address: 37 East St., Hopkinton, MA 01748, Contact: Jim Merloni, Jr., Phone: (617) 435-6316.

(b) *Approved Courses*:

Abatement Worker (contingent from 10/5/87).

Abatement Worker Refresher Course (contingent from 5/20/88).

(10)(a) *Training Provider*: Tufts University, Asbestos Information Center.

Address: 474 Boston Ave., Medford, MA 02155, Contact: Brenda Cole, Phone: (617) 381-3531.

(b) *Approved Courses*:

Contractor/Supervisor (interim from 9/1/85 to 5/31/87).

Contractor/Supervisor (full from 6/1/87).

Inspector/Management Planner (full from 11/16/87).

*Region II—Edison, NJ*

*Regional Asbestos Coordinator*: Arnold Freiburger, EPA, Region II, Woodbridge Ave., Raritan Depot, Bldg. 10, (ES-PTS), Edison, NJ 08837. (201) 321-6668, (FTS) 340-6671.

*List of Approved Courses*: The following training courses have been approved by EPA. The courses are listed under (b). This approval is subject to the level of certification indicated after the course name. Training Providers are listed in alphabetical order and do not reflect a prioritization. Approvals for Region II training courses and contact points for each, are as follows:

(1)(a) *Training Provider*: ATC Environmental, Inc.

Address: 104 East 25th St., New York, NY 10010, Contact: Anne Coogan, Phone: (212) 353-8280.

(b) *Approved Courses*:

Abatement Worker (full from 11/7/88).

Contractor/Supervisor (full from 11/7/88).

Inspector/Management Planner (contingent from 8/5/88).

(2)(a) *Training Provider*: Abatement Safety Training Institute (ASTI):

Address: 323 West 39th St., New York, NY 10018, Contact: Jay Sall, Phone: (212) 629-8400.

(b) *Approved Courses*:

Abatement Worker (contingent from 10/25/88).

Contractor/Supervisor (contingent from 10/25/88).

Inspector/Management Planner (contingent from 3/9/88).

Inspector/Management Planner (full from 3/21/88).

Inspector/Management Planner Refresher Course (contingent from 1/11/89).

(3)(a) *Training Provider*: Adelaide Environmental Health Associates.

Address: 61 Front St., Binghamton, NY 13905-4705, Contact: William S. Carter, Phone: (607) 722-6839.

(b) *Approved Course*:

Abatement Worker (contingent from 11/14/88).

(4)(a) *Training Provider*: Allwash of Syracuse, Inc.

Address: P.O. Box 605, Syracuse, NY 13201, Contact: Ronald D. Roy, Phone: (315) 454-4476.

(b) *Approved Courses*:

Abatement Worker (full from 12/7/88).

Abatement Worker Refresher Course (contingent from 12/15/88).

Contractor/Supervisor (contingent from 1/30/89).

(5)(a) *Training Provider*: Alternative Ways, Inc.

Address: 100 Essex Ave., Bellmawr, NJ 08031, Contact: Robert C. Hasiuk, Phone: (609) 933-3300.

(b) *Approved Courses*:

Abatement Worker (contingent from 4/11/88).

Contractor/Supervisor (contingent from 4/11/88).

Inspector/Management Planner (contingent from 4/22/88).

Inspector/Management Planner (full from 5/26/88).

Inspector/Management Planner Refresher Course (contingent from 1/18/89).

(6)(a) *Training Provider*: Anderson International.

Address: RD 2, North Main Street Extension, Jamestown, NY 14701, Contact: Sally L. Gould, Phone: (716) 664-4028.

(b) *Approved Courses*:

Abatement Worker (contingent from 12/29/88).

Contractor/Supervisor (contingent from 12/29/88).

(7)(a) *Training Provider*: Applied Respiratory Technology,



Address: P.O. Box 1132, Peekskill, NY 10566, Contact: Paul M. Madigan, Phone: (914) 431-6421.

(b) *Approved Courses:*

Abatement Worker (contingent from 8/11/88).

Abatement Worker (full from 11/28/88).

Abatement Worker Refresher Course (contingent from 10/19/88).

Contractor/Supervisor (contingent from 8/11/88).

Contractor/Supervisor (full from 11/28/88).

Contractor/Supervisor Refresher Course (contingent from 10/31/88).

(8)(a) *Training Provider:* Asbestos Environmental Institute.

Address: 18 East 41st St., Room 605, New York, NY 10017, Contact: David V. Chambers, Phone: (212) 679-8755.

(b) *Approved Courses:*

Abatement Worker (contingent from 10/18/88).

Abatement Worker (full from 12/5/88).

Contractor/Supervisor (contingent from 10/18/88).

Contractor/Supervisor (full from 12/5/88).

(9)(a) *Training Provider:* Asbestos Training Academy, Inc.

Address: 218 Cooper Center, Pennsauken, NJ 08109, Contact: Maryann Brady, Phone: (609) 488-9200.

(b) *Approved Courses:*

Abatement Worker (contingent from 9/15/88).

Abatement Worker (full from 11/7/88).

Contractor/Supervisor (contingent from 9/15/88).

Contractor/Supervisor (full from 11/7/88).

(10)(a) *Training Provider:* Asteco, Inc.

Address: P.O. Box 2204, Niagara University, Niagara, NY 14109, Contact: John Larson, Phone: (716) 297-5992.

(b) *Approved Courses:*

Abatement Worker (contingent from 3/1/88).

Abatement Worker (full from 4/13/88).

Abatement Worker Refresher Course (contingent from 12/20/88).

(11)(a) *Training Provider:* Astoria Industries, Inc.

Address: 538 Stewart Ave., Brooklyn, NY 11222, Contact: John Gajeski, Phone: (718) 387-0011.

(b) *Approved Courses:*

Abatement Worker (contingent from 3/8/88).

Abatement Worker (full from 4/18/88).

Inspector (contingent from 1/18/89).

(12)(a) *Training Provider:* Buffalo Laborers' Training Fund.

Address: 481 Franklin St., Buffalo, NY 14202, Contact: Victor J. Sansanese, Phone: (716) 884-7157.

(b) *Approved Course:*

Abatement Worker (contingent from 6/30/88).

(13)(a) *Training Provider:* Building Laborers' Local Union #17.

Address: P.O. Box 252, Vails Gate, NY 12584, Contact: Victor P. Mandia, Phone: (914) 582-1121.

(b) *Approved Course:*

Abatement Worker (contingent from 10/31/88).

(14)(a) *Training Provider:* Calibrations, Inc.

Address: P.O. Box 11266, Albany, NY 12211, Contact: James Percent, Phone: (516) 318-1893.

(b) *Approved Courses:*

Abatement Worker (contingent from 9/28/88).

Abatement Worker (full from 12/5/88).

Contractor/Supervisor (contingent from 9/28/88).

Contractor/Supervisor (full from 12/5/88).

Inspector/Management Planner (contingent from 9/28/88).

Project Designer (full from 5/23/88).

(15)(a) *Training Provider:* Cayuga-Onondaga BOCES.

Address: 234 South Street Rd., Auburn, NY 13021, Contact: Peter Pirnie, Phone: (315) 253-0361.

(b) *Approved Course:*

Abatement Worker (contingent from 6/17/88).

(16)(a) *Training Provider:* Education & Training Fund Laborers' Local No. 91.

Address: 2556 Seneca Ave., Niagara Falls, NY 14305, Contact: Joel Cicero, Phone: (716) 297-6001.

(b) *Approved Courses:*

Abatement Worker (full from 7/27/87).

Abatement Worker Refresher Course (contingent from 10/20/88).

Abatement Worker Refresher Course (full from 10/22/88).

(17)(a) *Training Provider:* Edward O. Watts & Associates.

Address: 1331 North Forest Rd., Suite 340, Buffalo, NY 14221, Contact: Edward Watts, Phone: (716) 688-4827.

(b) *Approved Course:*

Abatement Worker (contingent from 1/4/89).

(18)(a) *Training Provider:* Environmental Training, Inc.

Address: 661 Fulton St., Brooklyn, NY 11217, Contact: Nelson Helu, Phone: (718) 625-4300.

(b) *Approved Course:*

Abatement Worker (contingent from 4/25/88).

(19)(a) *Training Provider:* Hudson Asbestos Training Institute.

Address: 609 Manhattan Ave., Brooklyn, NY 11222, Contact: Henry Kawiorski, Phone: (718) 383-2656.

(b) *Approved Courses:*

Abatement Worker (contingent from 1/30/89).

Contractor/Supervisor (contingent from 1/30/89).

(20)(a) *Training Provider:* Hunter College Asbestos Training, Center/United Brotherhood of Carpenters & Joiners of America.

Address: 425 East 25th St., New York, NY 10010, Contact: Jack Caravanos, Phone: (212) 481-7569.

(b) *Approved Courses:*

Abatement Worker (full from 7/1/88).

Contractor/Supervisor (full from 7/1/88).

(21)(a) *Training Provider:* Hygeia Research & Training.

Address: P.O. Box 4506, Utica, NY 13501, Contact: Richard A. Gigliotti, Phone: (315) 732-8567.

(b) *Approved Courses:*

Abatement Worker (contingent from 2/12/88).

Abatement Worker (full from 4/13/88).

Abatement Worker Refresher Course (contingent from 12/13/88).

Contractor/Supervisor Refresher Course (contingent from 12/22/88).

(22)(a) *Training Provider:* Institute of Asbestos Awareness, Inc.

Address: 2 Heitz Pl., Hicksville, NY 11801, Contact: Henry R. Clegg, Phone: (516) 937-1600.

(b) *Approved Courses:*

Abatement Worker (full from 10/24/88).

Contractor/Supervisor (full from 10/24/88).

Inspector/Management Planner (contingent from 9/28/88).

(23)(a) *Training Provider:* Institute of Asbestos Technology Corporation.

Address: 5900 Butternut Dr., East Syracuse, NY 13057, Contact: Doreen E. Bianchi, Phone: (315) 437-1307.

(b) *Approved Courses:*

Abatement Worker (contingent from 5/18/88).

Abatement Worker (full from 6/27/88).

Abatement Worker Refresher Course (contingent from 12/20/88).

(24)(a) *Training Provider:* Kaselaan and D'Angelo Associates, Inc.

Address: 515 Grove St., Grove Plaza, Haddon Heights, NJ 08035, Contact: Lance Fredericks, Phone: (212) 213-1188.

(b) *Approved Courses:*



Inspector/Management Planner (contingent from 2/12/88).

Inspector/Management Planner (full from 3/7/88).

(25)(a) *Training Provider:* Laborers' Local Union No. 214 of Oswego, New York & Vicinity.

Address: 23 Mitchell St., Oswego, NY 13126, Contact: John T. Shannon, Phone: (315) 343-8553.

(b) *Approved Course:*

Abatement Worker (contingent from 9/1/88).

(26)(a) *Training Provider:* Mid-Atlantic Asbestos Training Center, UMDNJ Robert Wood Johnson Medical School.

Address: 675 Hoes Lane, Piscataway, NJ 08854-5635, Contact: Lee Laustsen, Phone: (201) 463-4500.

(b) *Approved Courses:*

Abatement Worker (full from 7/28/86).

Contractor/Supervisor (full from 7/28/86).

Inspector/Management Planner (full from 11/16/87).

Inspector/Management Planner Refresher Course (full from 11/18/88).

(27)(a) *Training Provider:* Monroe Community College of Rochester, New York.

Address: P.O. Box 9720, Rochester, NY 14623-0720, Contact: Dusty Swanger, Phone: (716) 272-9839.

(b) *Approved Course:*

Abatement Worker (contingent from 10/7/88).

(28)(a) *Training Provider:* National Asbestos Training Institute (NATI).

Address: 1776 Bloomsbury Ave., Ocean, NJ 07712, Contact: Doris L. Adler, Phone: (201) 918-0610.

(b) *Approved Course:*

Inspector/Management Planner (contingent from 6/13/88).

(29)(a) *Training Provider:* National Institution Abatement Science & Technology (NIASST).

Address: 114 West State St., P.O. Box 1780, Trenton, NJ 08607-1780, Contact: Glenn W. Phillips, Phone: (800) 422-2836.

(b) *Approved Course:*

Inspector/Management Planner (contingent from 3/8/88).

(30)(a) *Training Provider:* Niagara County Community College.

Address: 160 Washburn St., Lockport, NY 14094, Contact: Eugene Zinni, Phone: (716) 731-3271.

(b) *Approved Courses:*

Abatement Worker (contingent from 1/5/88).

Abatement Worker (full from 1/25/88).

Abatement Worker Refresher Course (contingent from 1/23/89).

Contractor/Supervisor (contingent from 1/5/88).

Contractor/Supervisor (full from 2/19/88).

Inspector/Management Planner (contingent from 5/18/88).

Inspector/Management Planner (full from 12/5/88).

(31)(a) *Training Provider:* O'Brien & Gere Engineers, Inc.

Address: Box 4873, 1304 Buckley Rd., Syracuse, NY 13221, Contact: Edwin C. Tift, Jr., Phone: (315) 451-4700.

(b) *Approved Course:*

Inspector/Management Planner (full from 10/27/88).

(32)(a) *Training Provider:* Princeton Testing Laboratory, Inc.

Address: 3490 US Route 1, Princeton Service Center, Princeton, NJ 08543, Contact: Anne Coogan, Phone: (609) 452-9050.

(b) *Approved Course:*

Inspector/Management Planner (contingent from 3/21/88).

(33)(a) *Training Provider:* Safe Air Environmental Group, Inc.

Address: P.O. Box 457, Depew, NY 14043, Contact: Reza Farrokhi, Phone: (800) 634-7234.

(b) *Approved Courses:*

Abatement Worker (contingent from 3/8/88).

Abatement Worker (full from 4/4/88).

Contractor/Supervisor (contingent from 3/8/88).

Contractor/Supervisor (full from 4/4/88).

(34)(a) *Training Provider:* Schuyler-Chemung-Tioga Board of Cooperative Educational Services.

Address: 431 Philo Rd., Elmira, NY 14903, Contact: L. Eugene Ferro, Phone: (607) 739-3581.

(b) *Approved Course:*

Inspector/Management Planner Refresher Course (contingent from 1/11/89).

(35)(a) *Training Provider:* State University of New York at Buffalo.

Address: 127 Farber Hall, Buffalo, NY 14214, Contact: Paul J. Kostyniak, Phone: (716) 831-2125.

(b) *Approved Course:*

Inspector (contingent from 1/4/89).

(36)(a) *Training Provider:* Testwell Craig Laboratories of Albany, Inc.

Address: 518 Clinton Ave., Albany, NY 12206, Contact: George W. Stowell, Phone: (518) 436-4114.

(b) *Approved Course:*

Abatement Worker (contingent from 10/21/88).

(37)(a) *Training Provider:* The Hazardous Waste Management Training Center of Buffalo, New York.

Address: 4454 Genesee St., Buffalo, NY 14225-5301, Contact: Denise Erb, Phone: (716) 634-3000.

(b) *Approved Courses:*

Abatement Worker (contingent from 10/31/88).

Contractor/Supervisor (contingent from 10/31/88).

(38)(a) *Training Provider:* Tri-Cities Laborers Training Program.

Address: 5 Lombard St., Schenectady, NY 12304, Contact: Joseph A. Zappone, Phone: (518) 370-3463.

(b) *Approved Courses:*

Abatement Worker (full from 3/21/88).

Abatement Worker Refresher Course (contingent from 10/26/88).

(39)(a) *Training Provider:* Union Occupational Health Center.

Address: 450 Grider St., Buffalo, NY 14215, Contact: Garath L. Tubbs, Phone: (716) 894-9366.

(b) *Approved Course:*

Abatement Worker (contingent from 10/31/88).

(40) (a) *Training Provider:* Utilicom Corporation.

Address: 7 Tobey Village Office Park, Pittsford, NY 14534, Contact: Dennis J. Money, Phone: (716) 381-8710.

(b) *Approved Courses:*

Abatement Worker (contingent from 10/21/88).

Abatement Worker (full from 9/21/88).

(41)(a) *Training Provider:* Warren Mae Associates.

Address: RD 3 Box 390, Endicott, NY 13760, Contact: Janine C. Rogelstad, Phone: (607) 754-8386.

(b) *Approved Course:*

Abatement Worker (contingent from 8/11/88).

(42)(a) *Training Provider:* Western New York Council on Occupational Safety & Health (WNYCOSH).

Address: 450 Grider St., Buffalo, NY 14215, Contact: Jeanne Reilly, Phone: (716) 897-2110.

(b) *Approved Courses:*

Abatement Worker (contingent from 12/28/87).

Abatement Worker (full from 1/24/88).

**REGION III—Philadelphia, PA**

*Regional Asbestos Coordinator:* Carole Dougherty, EPA, Region III (3HW-40), 841 Chestnut Bldg., Philadelphia, PA 19107. (215) 597-9859, (FTS) 597-3160.



*List of Approved Courses:* The following training courses have been approved by EPA. The courses are listed under (b). This approval is subject to the level of certification indicated after the course name. Training Providers are listed in alphabetical order and do not reflect a prioritization. Approvals for Region III training courses and contact points for each, are as follows:

(1)(a) *Training Provider:* Aerosol Monitoring & Analysis, Inc.

Address: P.O. Box 687, Hunt Valley, MD 21030, Contact: D.R. Twilley, Phone: (301) 785-5615.

(b) *Approved Courses:*

Abatement Worker (full from 11/27/87).  
Contractor/Supervisor (full from 11/27/87).

Inspector/Management Planner (contingent from 3/1/88).

Inspector/Management Planner (full from 3/31/88).

(2)(a) *Training Provider:* Alcam, Inc.

Address: 113 Poplar St., Box 213, Ambler, PA 19002, Contact: Albert Camburn, Phone: (215) 646-4059.

(b) *Approved Courses:*

Abatement Worker (contingent from 1/26/89).

Contractor/Supervisor (contingent from 1/26/89).

(3)(a) *Training Provider:* Alice Hamilton Center for Occupational Health, Committees on Occupational Safety & Health.

Address: 410 7th St., SE.—2nd Floor, Washington, DC 20003, Contact: Brian Christopher, Phone: (202) 543-0005.

(b) *Approved Courses:*

Abatement Worker (contingent from 10/12/87).

Abatement Worker (full from 1/16/88).

Abatement Worker Refresher Course (contingent from 12/29/88).

Contractor/Supervisor (full from 1/16/88).

Contractor/Supervisor Refresher Course (contingent from 12/29/88).

Inspector/Management Planner (contingent from 3/9/88).

Inspector/Management Planner (full from 6/20/88).

(4)(a) *Training Provider:* Asbestos Abatement Council of the Association of Wall & Ceiling Industries.

Address: 25 K St., NE., Suite 300, Washington, DC 20002, Contact: Carol Paquin, Phone: (202) 783-2924.

(b) *Approved Courses:*

Abatement Worker (full from 5/19/87).

Contractor/Supervisor (full from 5/19/87).

(5)(a) *Training Provider:* Asbestos Analytical Association, Inc.

Address: 3208-B George Washington Hwy., Portsmouth, VA 23704, Contact: Carol A. Holden, Phone: (804) 397-0695.

(b) *Approved Courses:*

Abatement Worker (contingent from 10/7/88).

Contractor/Supervisor (contingent from 10/7/88).

(6)(a) *Training Provider:* Asbestos Worker's Local #24.

Address: 6713 Ammendale Rd., Beltsville, MD 20705, Contact: Thomas Haun, Phone: (301) 937-7636.

(b) *Approved Courses:*

Abatement Worker (contingent from 9/15/88).

Abatement Worker Refresher Course (contingent from 12/1/88).

Contractor/Supervisor (contingent from 12/1/88).

Contractor/Supervisor Refresher Course (contingent from 12/1/88).

(7)(a) *Training Provider:* Biospherics, Inc.

Address: 12051 Indian Creek Ct., Beltsville, MD 20705, Contact: Marian Meiselman, Phone: (301) 369-3900.

(b) *Approved Courses:*

Abatement Worker (full from 10/1/87).

Abatement Worker Refresher Course (contingent from 8/12/88).

Abatement Worker Refresher Course (full from 10/31/88).

Contractor/Supervisor (full from 10/1/87).

Contractor/Supervisor Refresher Course (contingent from 8/12/88).

Contractor/Supervisor Refresher Course (full from 10/31/88).

Inspector/Management Planner (contingent from 5/20/88).

Inspector/Management Planner (full from 8/15/88).

(8)(a) *Training Provider:* Briggs Associates, Inc., Maryland.

Address: 8300 Guilford Rd., Suite E, Columbia, MD 21046, Contact: J. Ross Voorhees, Phone: (301) 381-4434.

(b) *Approved Courses:*

Abatement Worker (contingent from 1/30/89).

(9)(a) *Training Provider:* Brujos Scientific, Inc.

Address: 505 Drury Lane, Baltimore, MD 21229, Contact: Robert Olcrest, Phone: (301) 566-0859.

(b) *Approved Courses:*

Abatement Worker (full from 11/21/88).

Contractor/Supervisor (contingent from 9/29/88).

(10)(a) *Training Provider:* Carpenters Joint Apprenticeship Committee of Western Pennsylvania.

Address: 495 Mansfield Ave., Pittsburgh, PA 15205, Contact: William V. Unitas, Phone: (412) 922-6200.

(b) *Approved Course:*

Abatement Worker (contingent from 12/1/88).

(11)(a) *Training Provider:* Center for Environmental & Occupational Training, Inc.

Address: 9 Orchard St., Pittsburgh, PA 15221, Contact: Mark Grumet, Phone: (412) 271-7335.

(b) *Approved Courses:*

Abatement Worker (contingent from 9/15/88).

Abatement Worker (full from 12/8/88).

Contractor/Supervisor (contingent from 9/15/88).

Contractor/Supervisor (full from 12/8/88).

Contractor/Supervisor Refresher Course (contingent from 1/26/89).

(12)(a) *Training Provider:* Center for Hazardous Materials Research.

Address: University of Pittsburgh Applied Research Center, 320 William Pitt Way, Pittsburgh, PA 15238, Contact: Steven T. Ostheim, Phone: (412) 826-5320.

(b) *Approved Courses:*

Abatement Worker (contingent from 12/1/88).

Contractor/Supervisor (contingent from 12/1/88).

(13)(a) *Training Provider:* Charles County Community College. Address: Mitchell Rd., Box 910, LaPlata, MD 20646-0910, Contact: Jake Bair, Phone: (301) 934-2251.

(b) *Approved Courses:*

Abatement Worker (contingent from 1/26/89).

Contractor/Supervisor (contingent from 1/26/89).

(14)(a) *Training Provider:* Commonwealth of Pennsylvania Department of Public Welfare.

Address: P.O. Box 2675, Harrisburg, PA 17120-0012, Contact: Gerald A. Donatucci, Phone: (717) 783-9543.

(b) *Approved Courses:*

Abatement Worker (contingent from 8/3/88).

Abatement Worker (full from 11/15/88).

(15)(a) *Training Provider:* Delaware Technical & Community College.

Address: P.O. Box 897, Dover, DE 19903, Contact: David Stanley, Phone: (302) 736-4621.

(b) *Approved Courses:*

Abatement Worker (contingent from 4/20/88).

Contractor/Supervisor (contingent from 4/20/88).



(16)(a) *Training Provider*: Drexel University, Office of Continuing Professional Education.

Address: 32nd & Chestnut Sts., Philadelphia, PA 19104, Contact: Robert Ross, Phone: (215) 895-2156.

(b) *Approved Courses*:

Abatement Worker (interim from 9/1/86 to 11/11/87).

Abatement Worker (full from 11/12/87).

Abatement Worker Refresher Course (contingent from 12/29/88).

Contractor/Supervisor (interim from 9/1/86 to 11/11/87).

Contractor/Supervisor (full from 11/12/87).

Contractor/Supervisor Refresher Course (contingent from 12/29/88).

Inspector/Management Planner (contingent from 3/8/88).

Inspector/Management Planner (full from 3/14/88).

Inspector/Management Planner Refresher Course (contingent from 12/29/88).

(17)(a) *Training Provider*: Dynamac Corporation.

Address: 11140 Rockville Pike, Rockville, MD 20852, Contact: Richard A. De Blasio, Phone: (301) 468-2500.

(b) *Approved Course*:

Inspector/Management Planner (contingent from 9/1/88).

(18)(a) *Training Provider*: E.I. Dupont De Nemours & Co. Spruance Plant.

Address: P.O. Box 27001, Richmond, VA 23261, Contact: Clarence P. Mihal, Jr., Phone: (804) 743-2948.

(b) *Approved Course*:

Abatement Worker (contingent from 11/14/88).

(19)(a) *Training Provider*: Eastern Environmental Services of the Northeast, Inc.

Address: RD #1, Route 309 North, P.O. Box B, Drums, PA 18222, Contact: Kenneth Skuba, Phone: (717) 788-4155.

(b) *Approved Courses*:

Abatement Worker (full from 9/8/88).

Abatement Worker Refresher Course (contingent from 12/29/88).

Contractor/Supervisor (contingent from 8/11/88).

Contractor/Supervisor Refresher Course (contingent from 12/29/88).

(20)(a) *Training Provider*: Facilities Management Consultants, Inc.

Address: P.O. Box 309, Cecil, PA 15321, Contact: Edward Monaco, Phone: (412) 745-1770.

(b) *Approved Courses*:

Abatement Worker (contingent from 6/30/88).

Contractor/Supervisor (full from 10/18/88).

(21)(a) *Training Provider*: GST Co.

Address: Freedom Professional Bldg., 1341 Old Freedom Rd., Suite 3B, Mars, PA 16046, Contact: Norma Sanford, Phone: (412) 772-7488.

(b) *Approved Courses*:

Abatement Worker (contingent from 11/14/88).

Abatement Worker (full from 12/5/88).

Abatement Worker Refresher Course (contingent from 1/30/89).

Contractor/Supervisor (contingent from 11/14/88).

Contractor/Supervisor (full from 12/5/88).

Contractor/Supervisor Refresher Course (contingent from 1/30/89).

Inspector/Management Planner (contingent from 12/29/88).

(22)(a) *Training Provider*: Galson Technical Services, Inc.

Address: 5170 Campus Dr., Suite 200, Plymouth Meeting, PA 19462, Contact: Janet Oppenheim-McMullen, Phone: (215) 834-7288.

(b) *Approved Course*:

Inspector/Management Planner (contingent from 6/17/88).

(23)(a) *Training Provider*: Gerald T. Fenton, Inc.

Address: 3152 Bladensburg Rd., Washington, DC 20018, Contact: James R. Foster, Phone: (202) 269-2112.

(b) *Approval Courses*:

Abatement Worker (contingent from 12/15/88).

Contractor/Supervisor (contingent from 12/15/88).

(24)(a) *Training Provider*: Hazard Abatement Training Center.

Address: 101 East Lancaster Ave., Wayne, PA 19087, Contact: Robert Mautner, Phone: (215) 971-0830.

(b) *Approved Course*:

Inspector/Management Planner (contingent from 4/12/88).

(25)(a) *Training Provider*: Heat & Frost Insulators & Asbestos Workers Local #23.

Address: 42 Lynwood Dr., Rd. #4, Allentown, PA 18103, Contact: Jos Klocek, Phone: (717) 564-7563.

(b) *Approved Course*:

Abatement Worker (contingent from 10/20/88).

(26)(a) *Training Provider*: Heat & Frost Insulators & Asbestos Workers Local Union #2.

Address: 148 East Mall Plaza, Carnegie, PA 15106, Contact: Terry Larkin, Phone: (412) 276-3711.

(b) *Approved Courses*:

Abatement Worker (contingent from 9/28/88).

Abatement Worker (full from 10/25/88).

Abatement Worker Refresher Course (contingent from 9/28/88).

Abatement Worker Refresher Course (full from 12/8/88).

Contractor/Supervisor (contingent from 9/28/88).

Contractor/Supervisor Refresher Course (contingent from 9/28/88).

(27)(a) *Training Provider*: Jenkins Professionals, Inc.

Address: 5022 Campbell Blvd., Suite F, Baltimore, MD 21236, Contact: Larry Jenkins, Phone: (301) 529-3553.

(b) *Approved Courses*:

Abatement Worker (contingent from 2/10/88).

Contractor/Supervisor (contingent from 2/10/88).

(28)(a) *Training Provider*: Laborer's District Council of Eastern Pennsylvania.

Address: 2163 Berryhill St., Harrisburg, PA 17104, Contact: Gerald D. Temarantz, Phone: (717) 564-2707.

(b) *Approved Courses*:

Abatement Worker (contingent from 6/17/88).

Abatement Worker (full from 1/30/89).

(29)(a) *Training Provider*: Laborer's District Council of Western Pennsylvania.

Address: 1101 Fifth Ave., Pittsburgh, PA 15219, Contact: Paul Quarantillo, Phone: (412) 391-1712.

(b) *Approved Courses*:

Abatement Worker (contingent from 6/17/88).

Contractor/Supervisor (contingent from 6/17/88).

(30)(a) *Training Provider*: Laborers' District Council, Education Training Fund of Philadelphia & Vicinity.

Address: 500 Lancaster Ave., Exton, PA 19341, Contact: Jerry Roseman, Phone: (215) 836-1175.

(b) *Approved Courses*:

Abatement Worker (interim from 11/1/87 to 12/14/87).

Abatement Worker (contingent from 2/18/88).

(31)(a) *Training Provider*: Marcus Environmental.

Address: 6345 Courthouse Rd., P.O. Box 227, Prince George, VA 23875, Contact: Susan M. Wilcox, Phone: (804) 733-1855.

(b) *Approved Courses*:

Abatement Worker (contingent from 1/26/89).

Contractor/Supervisor (contingent from 1/26/89).

(32)(a) *Training Provider*: Medical College of Virginia, Virginia



Commonwealth University, Dept. of Preventive Medicine.

Address: P.O. Box 212, Richmond, VA 23298, Contact: Leonard Vance, Phone: (804) 786-9785.

(b) *Approved Courses:*

Contractor/Supervisor (contingent from 10/2/87).

Contractor/Supervisor (full from 11/2/87).

Contractor/Supervisor Refresher Course (contingent from 8/12/88).

Inspector/Management Planner (full from 2/29/88).

Inspector/Management Planner Refresher Course (contingent from 12/29/88).

(33)(a) *Training Provider:* NOVATEC, Inc.

Address: 505 Drury Lane, Baltimore, MD 21229, Contact: Robert Olcerst, Phone: (301) 566-0859.

(b) *Approved Courses:*

Abatement Worker (contingent from 2/2/88).

(34)(a) *Training Provider:* National Training Fund of Sheet Metal & Air Conditioning Industry/Workers' Institute for Safety & Health (WISH).

Address: 1126 Sixteenth St., NW., Washington, DC 20036, Contact: Scott Schneider, Phone: (202) 887-1980.

(b) *Approved Courses:*

Abatement Worker (interim from 11/1/86 to 8/1/87).

Abatement Worker (contingent from 9/18/87).

Abatement Worker (full from 9/18/87).

Abatement Worker Refresher Course (contingent from 12/29/88).

Contractor/Supervisor (interim from 11/1/86 to 8/1/87).

Contractor/Supervisor (contingent from 9/18/87).

Contractor/Supervisor (full from 9/18/87).

Inspector (contingent from 5/26/88).

(35)(a) *Training Provider:* Occupational Medical Center.

Address: 490 L'Enfant Plaza East, SW., Suite 4300, Washington, DC 20024, Contact: Ellen Kite, Phone: (202) 488-7990.

(b) *Approved Course:*

Abatement Worker (contingent from 9/28/88).

(36)(a) *Training Provider:* Old Dominion University, Office of Continuing Education, College of Health Services.

Address: Norfolk, VA 23529-0290, Contact: Shirley Glover, Phone: (804) 440-4256.

(b) *Approved Courses:*

Abatement Worker (contingent from 6/30/88).

Abatement Worker (full from 7/27/88).

(37)(a) *Training Provider:* Oneil M. Banks, Inc.

Address: 336 South Main St., Bel Air, MD 21014, Contact: Oneil M. Banks, Phone: (301) 879-4876.

(b) *Approved Courses:*

Abatement Worker (contingent from 1/5/88).

Contractor/Supervisor (contingent from 1/5/88).

Inspector (contingent from 3/14/88).

(38)(a) *Training Provider:* Paskal Environmental Services.

Address: 1400 South Joyce St., Suite C 1701, Arlington, VA 22202, Contact: Steven Paskal, Phone: (703) 920-6653.

(b) *Approved Course:*

Abatement Worker (contingent from 4/28/88).

(39)(a) *Training Provider:* Philadelphia Electric Co.

Address: Barbados Training Center, Norristown, PA 19401, Contact: John J. Stankiewicz, Phone: (215) 270-8600.

(b) *Approved Course:*

Abatement Worker (contingent from 9/19/88).

(40)(a) *Training Provider:* Phoenix Safety Associates, Ltd.

Address: P.O. Box 545, Phoenixville, PA 19460, Contact: Janet Sharkey, Phone: (215) 935-1770.

(b) *Approved Course:*

Inspector/Management Planner (contingent from 9/1/88).

(41)(a) *Training Provider:* Quality Specialities, Inc.

Address: P.O. Box 46, 109 South 15th Ave., Hopewell, VA 23860, Contact: Lewis Stevenson, Phone: (804) 458-5855.

(b) *Approved Course:*

Abatement Worker (contingent from 8/8/88).

(42)(a) *Training Provider:* S.G. Brown, Inc.

Address: 2701 Sonic Dr., Virginia Beach, VA 23456, Contact: Sandra A. Akers, Phone: (804) 468-0027.

(b) *Approved Courses:*

Abatement Worker (contingent from 7/12/88).

(43)(a) *Training Provider:* STL, Inc.

Address: P.O. Box 1029, Aberdeen, MD 21001, Contact: Terry F. Carraway, Jr., Phone: (301) 575-7844.

(b) *Approved Courses:*

Abatement Worker (contingent from 7/19/88).

Abatement Worker Refresher Course (contingent from 12/29/88).

Contractor/Supervisor (contingent from 7/19/88).

Contractor/Supervisor Refresher Course (contingent from 12/29/88).

Inspector/Management Planner (contingent from 12/15/88).

(44)(a) *Training Provider:* Safety Management Institute.

Address: P.O. Box 2267, Altoona, PA 16603, Contact: Christopher Tate, Phone: (814) 946-8778.

(b) *Approved Courses:*

Abatement Worker (contingent from 1/6/88).

Abatement Worker (full from 8/8/88).

Contractor/Supervisor (contingent from 1/6/88).

Contractor/Supervisor (full from 8/8/88).

Inspector/Management Planner (contingent from 2/4/88).

Inspector/Management Planner (full from 2/8/88).

(45)(a) *Training Provider:* Temple University College of Engineering.

Address: 12th & Norris Sts., Philadelphia, PA 19122, Contact: Lester Levin, Phone: (215) 787-6479.

(b) *Approved Courses:*

Abatement Worker (full from 10/21/87).

Contractor/Supervisor (contingent from 9/28/87).

Contractor/Supervisor (full from 10/1/87).

Inspector/Management Planner (full from 10/13/87).

Inspector/Management Planner Refresher Course (full from 12/19/88).

(46)(a) *Training Provider:* Tracor Jitco, Inc.

Address: 1601 Research Blvd., Rockville, MD 20850, Contact: Daniel O. Chute, Phone: (301) 984-2718.

(b) *Approved Courses:*

Contractor/Supervisor (contingent from 1/4/89).

Inspector/Management Planner (contingent from 1/4/89).

(47)(a) *Training Provider:* United Environmental Systems, Inc.

Address: 14 Stella Dr., Churchville, PA 18966, Contact: Michael Yaron, Phone: (215) 829-9454.

(b) *Approved Courses:*

Abatement Worker (contingent from 8/3/88).

Contractor/Supervisor (contingent from 6/30/88).

Inspector/Management Planner (contingent from 7/8/88).

(48)(a) *Training Provider:* University of Pittsburgh Graduate School of Public Health.

Address: Department of Industrial Environmental Health Sciences,



Pittsburgh, PA 15261, Contact: Dietrich A. Weyel, Phone: (412) 624-3850.

(b) *Approved Courses:*

Abatement Worker (contingent from 3/6/88).

Abatement Worker (full from 6/6/88).

Contractor/Supervisor (contingent from 3/6/88).

Contractor/Supervisor (full from 6/6/88).

(49)(a) *Training Provider:* Volz Environmental Services, Inc.

Address: 91 Pennsylvania Ave., Oakmont, PA 15139, Contact: George Bender, Phone: (412) 828-6666.

(b) *Approved Courses:*

Abatement Worker (contingent from 10/3/88).

Contractor/Supervisor (contingent from 10/3/88).

Inspector/Management Planner (contingent from 10/3/88).

(50)(a) *Training Provider:* Waco, Inc.

Address: Highway 925, N, P.O. Box 759, Waldorf, MD 20601, Contact: Wayne Cooper, Phone: (301) 843-2488.

(b) *Approved Courses:*

Abatement Worker (full from 9/15/87).

Abatement Worker Refresher Course (contingent from 8/12/88).

Contractor/Supervisor (full from 9/15/87).

Inspector/Management Planner (contingent from 9/16/88).

(51)(a) *Training Provider:* West

Virginia Laborers' Training Trust Fund.

Address: One Monongalia St., Charleston, WV 25302, Contact: Wetzel Harvey, Phone: (304) 346-0581.

(b) *Approved Course:*

Abatement Worker (contingent from 8/29/88).

(52)(a) *Training Provider:* West

Virginia University Extension Service.

Address: 704 Knapp Hall, P.O. Box 6031, Morgantown, WV 26506-6031. Contact: Robert L. Moore, Phone: (304) 293-4013.

(b) *Approved Courses:*

Abatement Worker (contingent from 10/20/88).

Contractor/Supervisor (contingent from 10/20/88).

Inspector/Management Planner (contingent from 5/9/88).

(53)(a) *Training Provider:* White Lung Association.

Address: 1114 Cathedral St., Baltimore, MD 21201, Contact: James Fite, Phone: (301) 727-6029.

(b) *Approved Courses:*

Abatement Worker (contingent from 2/18/88).

Abatement Worker (full from 6/6/88).

Contractor/Supervisor (contingent from 2/18/88).

Contractor/Supervisor (full from 6/6/88).

Inspector/Management Planner (contingent from 1/4/88).

Inspector/Management Planner (full from 2/15/88).

Inspector/Management Planner Refresher Course (contingent from 12/29/88).

(54)(a) *Training Provider:* William L. James Enterprises, Inc.

Address: 710 Capouse Ave., Scranton, PA 18509, Contact: William L. James, Phone: (717) 346-2637.

(b) *Approved Courses:*

Abatement Worker (contingent from 4/20/88).

Contractor/Supervisor (contingent from 4/20/88).

**REGION IV—Atlanta, GA**

*Regional Asbestos Coordinator:* Liz Wilde, EPA Region IV, 345 Courtland St., NE, (P&TSB), Atlanta, GA 30365. Phone: (404) 347-5014, (FTS) 257-5014.

*List of Approved Courses:* The following training courses have been approved by EPA. The courses are listed under (b). This approval is subject to the level of certification indicated after the course name. Training Providers are listed in alphabetical order and do not reflect a prioritization. Approvals for Region IV training courses and contact points for each, are as follows:

(1)(a) *Training Provider:* AHP Research, Inc.

Address: 1501 Johnsons Ferry Rd., Suite 230, P.O. Box 71926, Marietta, GA 30007, Contact: Dwight Brown, Phone: (404) 565-0061.

(b) *Approved Courses:*

Inspector/Management Planner (interim from 5/28/86 to 12/13/87).

Inspector/Management Planner (full from 12/14/87).

(2)(a) *Training Provider:* ATI Environmental Services.

Address: P.O. Box 3044, Louisville, KY 40201, Contact: Tim Ellis, Phone: (502) 589-5308.

(b) *Approved Courses:*

Abatement Worker (full from 1/12/88).

Contractor/Supervisor (full from 1/12/88).

(3)(a) *Training Provider:* American Environmental Safety Institute.

Address: 408 Pitney Rd., Columbia, SC 29212, Contact: Kim Cleveland, Phone: (803) 731-2986.

(b) *Approved Course:*

Contractor/Supervisor (full from 10/17/88).

(4)(a) *Training Provider:* Asbestos Consultants, Inc.

Address: P.O. Box 9054, Greensboro, NC 27408, Contact: Thomas Petty, Phone: (919) 275-3907.

(b) *Approved Course:*

Inspector/Management Planner (contingent from 3/9/88).

(5)(a) *Training Provider:* Asbestos Consulting & Training.

Address: 903 Northwest 6th Ave., Fort Lauderdale, FL 33311, Contact: Jim Stump, Phone: (305) 524-7208.

(b) *Approved Course:*

Abatement Worker (full from 5/8/88).

(6)(a) *Training Provider:* Asbestos Workers Local Union #48 Joint Apprenticeship Training Program.

Address: 374 Maynard Terrace, SE, Suite 232, Atlanta, GA 30316, Contact: Timothy Fuller, Phone: (404) 373-9866.

(b) *Approved Courses:*

Abatement Worker (full from 5/4/88).

Contractor/Supervisor (full from 6/27/88).

Contractor/Supervisor Refresher Course (full from 11/2/88).

Inspector (contingent from 9/26/88).

Inspector (full from 9/28/88).

(7)(a) *Training Provider:* Atlantic Environmental Consulting, Inc.

Address: 12200 Southwest 132 Ct., Miami, FL 33186, Contact: Stephan R. Schanemann, Phone: (305) 232-6364.

(b) *Approved Course:*

Abatement Worker (contingent from 8/11/88).

(8)(a) *Training Provider:* BCM Engineers, Inc.

Address: 108 St. Anthony St., P.O. Box 1784, Mobile, AL 36633, Contact: H. Conrad Freeman, Phone: (205) 433-3981.

(b) *Approved Courses:*

Inspector/Management Planner (full from 11/11/87).

Inspector/Management Planner Refresher Course (contingent from 12/15/88).

Project Designer (full from 12/8/87).

(9)(a) *Training Provider:* Continuing Education Mississippi State University.

Address: Memorial Hall-Bar Ave., P.O. Drawer 5247, Mississippi State, MS 39762-5247, Contact: Margaret V. Naugle, Phone: (601) 325-2677.

(b) *Approved Courses:*

Abatement Worker (contingent from 12/15/88).

Contractor/Supervisor (contingent from 7/19/88).

Inspector/Management Planner (full from 6/20/88).



Project Designer (contingent from 12/15/88).

(10)(a) *Training Provider:* DPC General Contractors, Inc.

Address: 250 Arizona Ave., NE, Bldg. A, Atlanta, GA 30307, Contact: Glen Kahler, Phone: (404) 373-0561.

(b) *Approved Courses:*

Abatement Worker (contingent from 4/5/88).

Abatement Worker (full from 5/9/88).

(11)(a) *Training Provider:* ELB & Associates, Inc.

Address: 605 Eastowne Dr., Chapel Hill, NC 27514, Contact: Michael L. Cannon, Phone: (919) 493-4471.

(b) *Approved Course:*

Abatement Worker (contingent from 6/30/88).

(12)(a) *Training Provider:* Enviro Science, Inc.

Address: 3509 Hayworth Dr., Raleigh, NC 26709, Contact: Reginald C. Jordan, Phone: (919) 782-6527.

(b) *Approved Course:*

Inspector/Management Planner (contingent from 9/15/88).

(13)(a) *Training Provider:*

Environmental Resources Group.

Address: 3845 Viscount, Memphis, TN 38118, Contact: Lee C. Thompson, Phone: (901) 795-0432.

(b) *Approved Course:*

Abatement Worker (contingent from 11/14/88).

(14)(a) *Training Provider:* Georgia Tech. Research Institute, Environmental Health & Safety Division.

Address: O'Keefe Building, Room 029, Atlanta, GA 30332, Contact: Robert D. Schmitter, Phone: (404) 894-3806.

(b) *Approved Courses:*

Contractor/Supervisor (interim from 6/1/85 to 5/10/87).

Contractor/Supervisor (full from 5/11/87).

Contractor/Supervisor Refresher Course (contingent from 9/23/87).

Contractor/Supervisor Refresher Course (full from 7/7/88).

Inspector/Management Planner (full from 10/19/87).

Inspector/Management Planner Refresher Course (contingent from 10/24/88).

Inspector/Management Planner Refresher Course (full from 11/29/88).

Project Designer (contingent from 6/1/88).

Project Designer (full from 6/7/88).

(15)(a) *Training Provider:* Great Barrier Insulation Co.

Address: Meador Warehouse, Western Dr., Mobile, AL 36607, Contact: Thomas Knotts, Phone: (205) 476-0350.

(b) *Approved Course:*

Abatement Worker (contingent from 5/13/88).

(16)(a) *Training Provider:* Harmon Engineering Associates.

Address: 1550 Pumphrey Ave., Auburn, AL 36830, Contact: Roger W. Thompson, Phone: (205) 821-9250.

(b) *Approved Course:*

Abatement Worker (contingent from 1/4/89).

(17)(a) *Training Provider:* Harrison Contracting, Inc.

Address: 3845 Viscount St., Suite 12, Memphis, TN 38118, Contact: Lee C. Thompson, Phone: (901) 795-0432.

(b) *Approved Course:*

Abatement Worker (full from 10/12/88).

(18)(a) *Training Provider:* Howard I. Henson Training Institute.

Address: 3592 Flat Shoals Rd., Decatur, GA 30034, Contact: Stephen Henson, Phone: (404) 243-5107.

(b) *Approved Course:*

Abatement Worker (full from 2/16/88).

(19)(a) *Training Provider:*

International Association of Heat & Frost Insulators & Asbestos Workers Local Union #60.

Address: 13000 North West 47th Ave., Miami, FL 33054, Contact: David Cleveland, Phone: (305) 681-0679.

(b) *Approved Courses:*

Abatement Worker (full from 11/15/88).  
Contractor/Supervisor (full from 12/12/88).

(20)(a) *Training Provider:*

International Association of Heat & Frost Insulators & Asbestos Workers Local Union #46.

Address: 7111 Wright Rd., Knoxville, TN 37931, Contact: John Wade, Phone: (615) 938-1274.

(b) *Approved Course:*

Abatement Worker (full from 10/11/88).

Contractor/Supervisor Refresher Course (contingent from 12/15/88).

(21)(a) *Training Provider:*

International Association of Heat & Frost Insulators & Asbestos Workers Local Union #72.

Address: 2513 Adams St., Wilmington, NC 28401, Contact: Mike Harrell, Phone: (919) 343-1730.

(b) *Approved Course:*

Abatement Worker (full from 8/10/88).

(22)(a) *Training Provider:*

International Association of Heat & Frost Insulators & Asbestos Workers Local Union #78.

Address: 600 Main St., Gardendale, AL 35071, Contact: Bill Boothe, Phone: (205) 631-4640.

(b) *Approved Course:*

Abatement Worker (full from 10/25/88).

(23)(a) *Training Provider:*

International Association of Heat & Frost Insulators & Asbestos Workers Local Union #96.

Address: 811 East 66th St., Savannah, GA 31405, Contact: Robert G. Greene, Phone: (912) 352-0014.

(b) *Approved Courses:*

Abatement Worker (full from 7/26/88).

Contractor/Supervisor (full from 9/13/88).

(24)(a) *Training Provider:* LCI Training Institute.

Address: 1432 Jocasta Dr., Lexington, KY 40502-5320, Contact: John F. Summersett, Phone: (606) 273-8881.

(b) *Approved Courses:*

Abatement Worker (contingent from 6/9/88).

Contractor/Supervisor (contingent from 6/9/88).

(25)(a) *Training Provider:* Laborers' District Council of Southeast Florida.

Address: 799 Northwest 62nd St., Miami, FL 33510, Contact: Albert Houston, Phone: (305) 754-2659.

(b) *Approved Course:*

Abatement Worker (full from 3/15/88).

(26)(a) *Training Provider:* Medical University of South Carolina.

Address: 171 Ashley Ave., Charleston, SC 29425, Contact: Jan Temple, Phone: (803) 792-5315.

(b) *Approved Course:*

Abatement Worker (full from 12/19/88).

(27)(a) *Training Provider:* National Asbestos Council (NAC), Training Dept.

Address: 1777 Northeast Expressway, Suite 150, Atlanta, GA 30329, Contact: Zachary S. Cowan III, Phone: (404) 633-2622.

(b) *Approved Courses:*

Abatement Worker (interim from 7/1/86 to 6/1/87).

Abatement Worker (full from 7/1/87).

(28)(a) *Training Provider:*

Occupational Safety & Health Educational Resource Center, University of North Carolina at Chapel Hill.

Address: School of Public Health, 109 Conner Dr., Suite 1101, Chapel Hill, NC 27518, Contact: Ted Williams, Phone: (919) 962-2101.

(b) *Approved Courses:*

Contractor/Supervisor (contingent from 6/1/88).

Contractor/Supervisor (full from 6/6/88).

Inspector/Management Planner (full from 11/9/87).



Inspector/Management Planner  
Refresher Course (contingent from 12/15/88).

(29)(a) *Training Provider:* PDR Engineers, Inc.

Address: 2000 Lindell Ave., Nashville, TN 37203, Contact: Ayaja K. Upaphyaya, Phone: (615) 298-2065.

(b) *Approved Course:*

Inspector (contingent from 9/15/88).

(30)(a) *Training Provider:* Practical Environmental Training Institute.

Address: 2711 Burch Dr., Charlotte, NC 28221, Contact: Dianne Christenbery, Phone: (704) 598-9588.

(b) *Approved Course:*

Abatement Worker (full from 10/24/88).

(31)(a) *Training Provider:* RETRA Services, Inc.

Address: Watergate Executive Suites, 1730 South Alt. 19, Suite G 700, Tarpon Springs, FL 34669, Contact: Phil Parroff, Phone: (800) 548-5848.

(b) *Approved Course:*

Abatement Worker Refresher Course (contingent from 12/29/88).

(32)(a) *Training Provider:* South Carolina Research and Training Center.

Address: 300 Gervais St., Annex III, Columbia, SC 29201, Contact: Jan Temple, Phone: (803) 737-2060.

(b) *Approved Courses:*

Contractor/Supervisor (full from 3/8/88).

Inspector/Management Planner (full from 3/1/88).

(33)(a) *Training Provider:* Southeast Asbestos Free Environments, Inc.

Address: 350 South Second Ave., P.O. Box 51267, Jacksonville Beach, FL 32250, Contact: Otey Reynolds, Phone: (904) 246-8000.

(b) *Approved Courses:*

Abatement Worker (contingent from 12/15/88).

Contractor/Supervisor (contingent from 1/18/89).

(34)(a) *Training Provider:* The Environmental Institute.

Address: COBB Corporate Center/300, 350 Franklin Rd., Marietta, GA 30067, Contact: Eva Clay, Phone: (404) 425-2000.

(b) *Approved Courses:*

Abatement Worker (contingent from 12/10/87).

Abatement Worker (full from 5/2/88).

Contractor/Supervisor (contingent from 12/10/87).

Contractor/Supervisor (full from 2/1/88).

Contractor/Supervisor Refresher Course (full from 5/19/88).

Inspector/Management Planner (contingent from 12/10/87).

Inspector/Management Planner (full from 1/25/88).

Inspector/Management Planner Refresher Course (full from 11/8/88).

Project Designer (contingent from 2/5/88).

Project Designer (full from 2/9/88).

(35)(a) *Training Provider:* University of Alabama, College of Continuing Studies, Division of Environmental & Industrial Programs.

Address: P.O. Box 2967, Tuscaloosa, AL 35486-2967, Contact: William Weems, Phone: (205) 348-3033.

(b) *Approved Courses:*

Abatement Worker (full from 4/5/88).

Contractor/Supervisor (full from 12/14/87).

Inspector/Management Planner (full from 5/16/88).

(36)(a) *Training Provider:* University of Alabama-Birmingham, Deep South Center.

Address: Birmingham, AL 35294, Contact: Elizabeth Lynch, Phone: (205) 934-7032.

(b) *Approved Course:*

Inspector/Management Planner (full from 3/21/88).

(37)(a) *Training Provider:* University of Florida, TREEO Center.

Address: 3900 South West 63rd Blvd., Gainesville, FL 32608, Contact: Sandra Scaggs, Phone: (904) 392-9570.

(b) *Approved Courses:*

Abatement Worker (contingent from 8/12/88).

Contractor/Supervisor (interim from 2/9/87 to 4/30/87).

Contractor/Supervisor (full from 5/1/87).

Inspector/Management Planner (interim from 1/27/87 to 12/14/87).

Inspector/Management Planner (contingent from 2/5/88).

Inspector/Management Planner (full from 2/15/88).

(38) (a) *Training Provider:* University of Kentucky, College of Engineering Continuing Education.

Address: 305 Slone Bldg., Lexington, KY 40506-0053, Contact: A.B. Broderson, Phone: (606) 257-4300.

(b) *Approved Course:*

Inspector/Management Planner (full from 2/15/88).

(39)(a) *Training Provider:* Weston.

Address: 1635 Pumphrey Ave., Auburn, AL 36830, Contact: David L. Elam, Jr., Phone: (205) 826-6100.

(b) *Approved Courses:*

Abatement Worker (contingent from 6/13/88).

Contractor/Supervisor (contingent from 10/6/88).

Inspector/Management Planner (contingent from 5/13/88).

Inspector/Management Planner Refresher Course (contingent from 12/15/88).

Project Designer (contingent from 8/23/88).

Project Designer Refresher Course (contingent from 12/15/88).

(40)(a) *Training Provider:* Williams and Associates, Inc., Environmental Training Center.

Address: 460 Tennessee St., Memphis, TN 38103, Contact: Ruth Williams, Phone: (901) 521-9030.

(b) *Approved Courses:*

Abatement Worker (contingent from 2/18/88).

Abatement Worker (full from 4/18/88).

Contractor/Supervisor (contingent from 2/18/88).

Contractor/Supervisor (full from 4/18/88).

#### Region V—Chicago, IL

*Regional Asbestos Coordinator:* Anthony Restaino, EPA Region V, 230 S. Dearborn St., (T-SPTB-7), Chicago, IL 60604. (312) 886-6003, (FTS) 886-6003.

*List of Approved Courses:* The following training courses have been approved by EPA. The courses are listed under (b). This approval is subject to the level of certification indicated after the course name. Training Providers are listed in alphabetical order and do not reflect a prioritization. Approvals for Region V training courses and contact points for each, are as follows:

(1)(a) *Training Provider:* Abatement Training Institute, Inc.

Address: P.O. Box 26835, Columbus, OH 43226-0835, Contact: Steven Ritchie, Phone: (614) 267-0908.

(b) *Approved Course:*

Abatement Worker (contingent from 3/1/88).

(2)(a) *Training Provider:* Advanced Environmental, Inc.

Address: 1216 Selby Ave., St. Paul, MN 55104, Contact: James D. Risimini, Phone: (612) 641-1101.

(b) *Approved Courses:*

Abatement Worker (contingent from 7/27/88).

Abatement Worker Refresher Course (contingent from 1/4/89).

Contractor/Supervisor (contingent from 7/27/88).

Contractor/Supervisor Refresher Course (contingent from 1/4/89).

Inspector/Management Planner (contingent from 7/27/88).

(3)(a) *Training Provider:* Affiliated Environmental Services, Inc.



Address: 3606 Venice Rd., Sandusky, OH 44870, Contact: Jack Dauch, Phone: (419) 627-1976.

(b) *Approved Courses:*

Abatement Worker (contingent from 7/14/88).

Abatement Worker (full from 10/24/88).  
Contractor/Supervisor (contingent from 12/29/88).

(4)(a) *Training Provider:* Alderink & Associates, Inc.

Address: 3221 Three Mile Rd., NW, Grand Rapids, MI 49504, Contact: Deborah C. Alderink, Phone: (616) 791-0730.

(b) *Approved Courses:*

Abatement Worker (contingent from 7/15/88).

Abatement Worker (full from 9/6/88).  
Abatement Worker Refresher Course (contingent from 9/1/88).

Abatement Worker Refresher Course (full from 9/6/88).

Contractor/Supervisor (contingent from 7/15/88).

Contractor/Supervisor (full from 9/19/88).

Contractor/Supervisor Refresher Course (contingent from 12/1/88).

(5)(a) *Training Provider:* American Environmental Institute.

Address: Main Campus, Plaza West, Cleveland, OH 44116, Contact: Gary P. Block, Phone: (216) 333-8225.

(b) *Approved Courses:*

Abatement Worker (contingent from 12/15/88).

Abatement Worker Refresher Course (contingent from 12/8/88).

Contractor/Supervisor (contingent from 9/1/88).

Contractor/Supervisor Refresher Course (contingent from 12/6/88).

Inspector/Management Planner (contingent from 11/14/88).

(6)(a) *Training Provider:* Applied Environmental Sciences, Inc.

Address: Minneapolis Business & Technology Center, 511 11th Ave. So., Minneapolis, MN 55415, Contact: Franklin H. Dickson, Phone: (612) 339-5559.

(b) *Approved Course:*

Abatement Worker (contingent from 8/30/88).

(7)(a) *Training Provider:* Aries Environmental Services, Ltd.

Address: 1550 Hubbard, Batavia, IL 60510, Contact: Dennis Cesarotti, Phone: (312) 879-3006.

(b) *Approved Courses:*

Abatement Worker (contingent from 6/13/88).

Abatement Worker Refresher Course (contingent from 1/18/89).

(8)(a) *Training Provider:* Asbestos Abatement, Inc.

Address: 2420 N. Grand River, Lansing, MI 48906, Contact: Shawn O'Callaghan, Phone: (517) 323-0053.

(b) *Approved Course:*

Abatement Worker (contingent from 7/6/88).

(9)(a) *Training Provider:* Asbestos Consulting Group, Inc.

Address: P.O. Box 3157, La Crosse, WI 54602-3157, Contact: Larry Lienau, Phone: (608) 782-1670.

(b) *Approved Courses:*

Contractor/Supervisor (contingent from 7/12/88).

Inspector/Management Planner (contingent from 10/14/88).

(10)(a) *Training Provider:* Asbestos Management, Inc. (AMI).

Address: 36700 South Huron, Suite 104, New Boston, MI 48164, Contact: Michael L. Stoelton, Phone: (313) 981-6135.

(b) *Approved Courses:*

Abatement Worker (contingent from 8/12/88).

Abatement Worker Refresher Course (contingent from 1/4/89).

Contractor/Supervisor (contingent from 8/18/87).

Inspector/Management Planner (contingent from 1/26/88).

Inspector/Management Planner (full from 2/1/88).

Inspector/Management Planner Refresher Course (contingent from 11/14/88).

(11)(a) *Training Provider:* Asbestos Services, Inc.

Address: P.O. Box 141, Baroda, MI 49101, Contact: Dennis W. Calkins, Phone: (616) 422-2174.

(b) *Approved Courses:*

Abatement Worker (contingent from 8/12/88).

Contractor/Supervisor (contingent from 8/12/88).

(12)(a) *Training Provider:* Asbestos Training & Employment, Inc. (ATEI).

Address: 809 East 11th St., Michigan City, IN 46360, Contact: Bruce H. Connell, Phone: (219) 874-7348.

(b) *Approved Courses:*

Abatement Worker (contingent from 1/15/88).

Abatement Worker (full from 5/18/88).

Abatement Worker Refresher Course (contingent from 12/11/88).

Contractor/Supervisor (contingent from 1/19/88).

Contractor/Supervisor (full from 6/20/88).

Contractor/Supervisor Refresher Course (contingent from 12/11/88).

Inspector/Management Planner (contingent from 5/13/88).

Inspector/Management Planner Refresher Course (contingent from 12/11/88).

(13)(a) *Training Provider:* Asbestos Workers Council.

Address: 1216 East McMillan St., Room 107, Cincinnati, OH 45206, Contact: Richard Black, Phone: (513) 221-5969.

(b) *Approved Course:*

Abatement Worker (contingent from 10/31/88).

(14)(a) *Training Provider:* Astesco Laboratory, Inc.

Address: RR 1 Box 328, Reelsville, IN 46171, Contact: Donald Allen, Phone: (317) 672-8400.

(b) *Approved Course:*

Abatement Worker (full from 10/31/88).

(15)(a) *Training Provider:* BDN Industrial Hygiene Consultants.

Address: 8105 Valleywood Lane, Portage, MI 49002, Contact: Keith Nichols, Phone: (616) 329-1237.

(b) *Approved Courses:*

Abatement Worker (contingent from 3/1/88).

Contractor/Supervisor (contingent from 10/1/87).

Contractor/Supervisor Refresher Course (contingent from 9/15/88).

Inspector/Management Planner (contingent from 1/15/88).

Inspector/Management Planner (full from 2/15/88).

(16)(a) *Training Provider:* Bems Engineering, Inc.

Address: 18600 Northville Rd., Suite 200, Northville, MI 48167, Contact: Eugene L. Kunz, Phone: (313) 348-9167.

(b) *Approved Courses:*

Contractor/Supervisor (contingent from 12/29/88).

Contractor/Supervisor Refresher Course (contingent from 12/29/88).

Inspector (contingent from 1/18/89).

Inspector/Management Planner Refresher Course (contingent from 1/4/89).

(17)(a) *Training Provider:* Carnow, Conibear & Associates, Ltd.

Address: 333 West Wacker Dr., Suite 1400, Chicago, IL 60606, Contact: Victoria Musselman, Phone: (312) 782-4488.

(b) *Approved Course:*

Abatement Worker (full from 2/29/88).

(18)(a) *Training Provider:* Charles J. Ogg and Associates.

Address: P.O. Box 815, Newburgh, IN 47629-0815, Contact: Charles J. Ogg, Phone: (812) 853-7607.



**(b) Approved Course:**

Abatement Worker (contingent from 12/29/88).

(19)(a) *Training Provider:* Clayton Environmental Consultants, Inc.

Address: 22345 Roethel Dr., Novi, MI 48050, Contact: Michael Coffman, Phone: (313) 344-1770.

**(b) Approved Courses:**

Inspector/Management Planner (contingent from 1/26/88).

Inspector/Management Planner (full from 2/16/88).

(20)(a) *Training Provider:* Cleveland Environmental Services, Inc.

Address: 1400 Harrison Ave., Cincinnati, OH 45214, Contact: Eugene B. Rose, Phone: (513) 921-4143.

**(b) Approved Course:**

Abatement Worker (contingent from 1/18/89).

(21)(a) *Training Provider:* Cleveland Wrecking Co.

Address: 1400 Harrison Ave., P.O. Box 145530, Cincinnati, OH 45214, Contact: Eugene B. Rose, Phone: (513) 921-1160.

**(b) Approved Courses:**

Abatement Worker (contingent from 1/18/89).

Contractor/Supervisor (contingent from 1/18/89).

(22)(a) *Training Provider:* Columbus Paraprofessional Institute, Battelle Columbus Division.

Address: 505 King Ave., Columbus, OH 43201-2693, Contact: John Simpkins, Phone: (614) 424-6424.

**(b) Approved Courses:**

Inspector/Management Planner (contingent from 4/4/88).

Inspector/Management Planner (full from 4/11/88).

Inspector/Management Planner Refresher Course (contingent from 11/30/88).

**(23)(a) Training Provider:**

Construction & General Laborer's District Council of Chicago & Vicinity, Training Trust Fund.

Address: 400 East Ogden Ave., Westmont, IL 60559, Contact: Anthony Solano, Phone: (312) 323-8999.

**(b) Approved Courses:**

Abatement Worker (contingent from 9/16/88).

Abatement Worker Refresher Course (contingent from 12/1/88).

**(24)(a) Training Provider:**

Daniel J. Hartwig & Associates, Inc.

Address: P.O. Box 31, Oregon, WI 53575-0031, Contact: Alice J. Seeliger, Phone: (608) 835-5781.

**(b) Approved Courses:**

Abatement Worker (full from 10/18/88).

Inspector/Management Planner (contingent from 2/9/88).

Inspector/Management Planner (full from 4/18/88).

(25)(a) *Training Provider:* Danto Environmental Engineering Education Corporation.

Address: 7471-H Tyler Blvd., Mentor, OH 44060, Contact: Harold N. Danto, Phone: (216) 942-4800.

**(b) Approved Courses:**

Abatement Worker (contingent from 10/7/88).

Abatement Worker Refresher Course (contingent from 1/4/89).

(26)(a) *Training Provider:* Darla Environmental, Inc.

Address: 1220 Richards St., Suite H, Joliet, IL 60433-2758, Contact: Salvador Garcia, Phone: (815) 722-5561.

**(b) Approved Courses:**

Abatement Worker (contingent from 10/7/88).

Contractor/Supervisor (contingent from 10/7/88).

(27)(a) *Training Provider:* DeLisle Consulting & Laboratories, Inc.

Address: 6946 East North Ave., Kalamazoo, MI 49001, Contact: Mark DeLisle, Phone: (616) 343-9698.

**(b) Approved Courses:**

Abatement Worker (contingent from 9/1/88).

Contractor/Supervisor (contingent from 10/5/87).

Contractor/Supervisor (full from 10/20/87).

Contractor/Supervisor Refresher Course (contingent from 9/1/88).

Inspector/Management Planner (contingent from 12/22/87).

Inspector/Management Planner (full from 1/27/88).

(28)(a) *Training Provider:* Dore & Associates Contracting, Inc.

Address: 900 Harry S. Truman Parkway, P.O. Box 146, Bay City, MI 48707, Contact: Joseph Goldring, Phone: (517) 684-8358.

**(b) Approved Courses:**

Abatement Worker (contingent from 7/6/88).

Abatement Worker (full from 7/25/88).

Abatement Worker Refresher Course (contingent from 10/31/88).

Contractor/Supervisor (contingent from 10/31/88).

(29)(a) *Training Provider:* Ecological Services, Inc.

Address: 107 Clay St., Tiffin, OH 44880-0715, Contact: Harish N. Pandhi, Phone: (419) 447-2514.

**(b) Approved Course:**

Abatement Worker (contingent from 12/1/88).

**(30)(a) Training Provider:**

Environmental Abatement Systems, Inc.  
Address: 6416 Ellsworth, Detroit, MI 48238, Contact: Farrell Davis, Phone: (313) 345-3154.

**(b) Approved Courses:**

Abatement Worker (contingent from 8/12/88).

Contractor/Supervisor (contingent from 8/12/88).

**(31)(a) Training Provider:**

Environmental Professionals, Inc.  
Address: 1405 Newton St., Tallmadge, OH 44278, Contact: Edward C. Bruner, Phone: (216) 633-4435.

**(b) Approved Courses:**

Contractor/Supervisor (contingent from 2/2/88).

Contractor/Supervisor Refresher Course (contingent from 1/26/89).

**(32)(a) Training Provider:**

Environmental Rehab, Inc.

Address: 700 Coronis Cir., Green Bay, WI 54304, Contact: Randy LaCrosse, Phone: (414) 337-0650.

**(b) Approved Course:**

Abatement Worker (contingent from 1/4/89).

**(33)(a) Training Provider:**

Environmental Response Systems, Inc.  
Address: 5319 Broadway Ave., Cleveland, OH 44127, Contact: Paul J. Stroud, Jr., Phone: (216) 883-1152.

**(b) Approved Course:**

Contractor/Supervisor (contingent from 12/29/88).

**(34)(a) Training Provider:**

Environmental Safety Training Services, Inc.

Address: 824 South Second St., P.O. Box 5600, Springfield, IL 62705, Contact: Dave Juelich, Phone: (217) 753-0400.

**(b) Approved Course:**

Abatement Worker (contingent from 1/26/89).

**(35)(a) Training Provider:**

Environmental Training Institute.

Address: 4708 Angola Rd., Toledo, OH 43615, Contact: Dale Bruhl, Jr., Phone: (419) 382-9200.

**(b) Approved Course:**

Abatement Worker (contingent from 1/18/89).

(36)(a) *Training Provider:* Escor, Inc.,  
Address: 540 Frontage Rd., Suite 211, Northfield, IL 60093, Contact: R. Eric Zimmerman, Phone: (312) 501-2190.

**(b) Approved Courses:**

Abatement Worker (contingent from 8/12/88).

Abatement Worker Refresher Course (contingent from 9/15/88).



Contractor/Supervisor (contingent from 8/12/88).

Contractor/Supervisor Refresher Course (contingent from 9/15/88).

Inspector/Management Planner (contingent from 8/12/88).

Inspector/Management Planner Refresher Course (contingent from 9/1/88).

(37)(a) *Training Provider:* Foley Occupational Health Consulting.

Address: 2400 North Reynolds Rd., Toledo, OH 43615, Contact: E.D. Foley, Jr., Phone: (419) 531-7191.

(b) *Approved Courses:*

Contractor/Supervisor (contingent from 2/4/88).

Contractor/Supervisor Refresher Course (contingent from 1/4/89).

(38)(a) *Training Provider:* G & H Contracting Associates, Ltd.

Address: 300 Acorn St., P.O. Box 49080, Plainwell, MI 49080, Contact: Jeffrey C. Gren, Phone: (616) 685-1606.

(b) *Approved Courses:*

Abatement Worker (contingent from 10/7/88).

Abatement Worker (full from 11/7/88).

(39)(a) *Training Provider:* Gandee & Associates, Inc.

Address: 4488 Mobile Dr., Columbus, OH 43211, Contact: Kurt Varga, Phone: (614) 459-8338.

(b) *Approved Courses:*

Abatement Worker (contingent from 6/30/88).

Contractor/Supervisor (contingent from 6/1/88).

Contractor/Supervisor (full from 8/29/88).

(40)(a) *Training Provider:* Hazard Management Group, Inc.

Address: P.O. Box 627, Ashtabula, OH 44004, Contact: Gabriel Demshar, Jr., Phone: (216) 992-1122.

(b) *Approved Courses:*

Abatement Worker (contingent from 1/4/89).

Contractor/Supervisor (contingent from 1/4/89).

(41)(a) *Training Provider:* Hazardous Materials Institute, Inc.

Address: 540 Frontage Rd., Suite 211, Northfield, IL 60093, Contact: Jim Viskocil, Phone: (312) 501-2194.

(b) *Approved Courses:*

Abatement Worker (contingent from 8/12/88).

Abatement Worker Refresher Course (contingent from 9/15/88).

Contractor/Supervisor (contingent from 8/12/88).

Contractor/Supervisor Refresher Course (contingent from 9/15/88).

Inspector/Management Planner (contingent from 8/3/88).

Inspector/Management Planner Refresher Course (contingent from 9/15/88).

Project Designer (contingent from 10/14/88).

(42)(a) *Training Provider:* Heat and Frost Insulators Local #17 Apprentice Training Center.

Address: 3850 South Racine Ave., Chicago, IL 60609, Contact: John P. Shine, Phone: (312) 247-1007.

(b) *Approved Courses:*

Abatement Worker (contingent from 10/2/87).

Abatement Worker (full from 11/8/87).

Abatement Worker Refresher Course (contingent from 10/14/88).

Contractor/Supervisor (contingent from 3/21/88).

Contractor/Supervisor (full from 3/22/88).

Contractor/Supervisor Refresher Course (contingent from 12/1/88).

(43)(a) *Training Provider:* Heat and Frost Insulators, Local #34.

Address: 708 South 10th St., Minneapolis, MN 55404, Contact: Lee Houske, Phone: (612) 332-3216.

(b) *Approved Courses:*

Abatement Worker (full from 11/8/88).

Contractor/Supervisor (full from 11/8/88).

(44)(a) *Training Provider:* I.P.C., Chicago.

Address: 4309 West Henderson, Chicago, IL 60641, Contact: Robert G. Cooley, Phone: (312) 975-3495.

(b) *Approved Courses:*

Abatement Worker (contingent from 10/5/87).

Abatement Worker (full from 7/5/88).

(45)(a) *Training Provider:* Illinois Laborers' & Contractors' Training Program, Training Trust Fund.

Address: Rural Route 3, Mount Sterling, IL 62353, Contact: Tony Romolo, Phone: (217) 773-2741.

(b) *Approved Courses:*

Abatement Worker (contingent from 1/6/88).

Abatement Worker (full from 2/1/88).

Abatement Worker Refresher Course (contingent from 9/1/88).

Contractor/Supervisor (contingent from 2/9/88).

Contractor/Supervisor (full from 3/14/88).

(46)(a) *Training Provider:* Ilse Engineering, Inc.

Address: 7177 Arrowhead Rd., Duluth, MN 55811, Contact: John F. Ilse, Phone: (218) 729-8858.

(b) *Approved Courses:*

Abatement Worker (contingent from 12/15/88).

(47)(a) *Training Provider:* Indiana Laborers' Training Trust Fund.

Address: P.O. Box 758, Bedford, IN 47421, Contact: Richard Fassino, Phone: (812) 279-9751.

(b) *Approved Courses:*

Abatement Worker (contingent from 12/11/87).

Abatement Worker (full from 2/22/88).

Abatement Worker Refresher Course (contingent from 10/7/88).

Contractor/Supervisor (contingent from 6/2/88).

Contractor/Supervisor (full from 8/15/88).

(48)(a) *Training Provider:* Indianapolis Center for Advanced Research, Inc.

Address: 611 North Capitol Ave., Indianapolis, IN 46204, Contact: William Beranek, Jr., Phone: (317) 262-5027.

(b) *Approved Courses:*

Abatement Worker (contingent from 9/13/88).

Abatement Worker Refresher Course (contingent from 12/27/88).

Contractor/Supervisor (contingent from 9/15/88).

Contractor/Supervisor Refresher Course (contingent from 12/27/88).

Inspector/Management Planner (contingent from 5/9/88).

Inspector/Management Planner (full from 6/6/88).

Inspector/Management Planner Refresher Course (contingent from 12/6/88).

(49)(a) *Training Provider:* Industrial Environmental Consultants.

Address: 2875 Northwind, Suite 113, East Lansing, MI 48823, Contact: James C. Fox, Phone: (517) 332-7026.

(b) *Approved Courses:*

Abatement Worker (contingent from 5/9/88).

Abatement Worker Refresher Course (contingent from 1/18/89).

Contractor/Supervisor (contingent from 8/3/88).

Contractor/Supervisor Refresher Course (contingent from 12/5/88).

Inspector/Management Planner (contingent from 3/1/88).

(50)(a) *Training Provider:* Institute for Environmental Assessment.

Address: 2829 Verndale Ave., Anoka, MN 55303, Contact: William Sloan, Phone: (612) 427-5310.

(b) *Approved Courses:*

Abatement Worker (contingent from 8/12/88).

Contractor/Supervisor (contingent from 8/12/88).



(51)(a) *Training Provider:* International Association of Heat & Frost Insulators & Asbestos Workers Local #34.

Address: 708 South 10th St., Minneapolis, MN 55404, Contact: Lee A. Houske, Phone: (612) 332-3216.

(b) *Approved Courses:*

Abatement Worker (contingent from 8/8/88).

Contractor/Supervisor (contingent from 9/1/88).

(52)(a) *Training Provider:* International Association of Heat & Frost Insulators & Asbestos Workers, Local #127.

Address: 2787 Pamela Dr., Green Bay, WI 54302, Contact: Michael A. Simons, Phone: (414) 468-5973.

(b) *Approved Courses:*

Abatement Worker (contingent from 1/18/89).

Abatement Worker Refresher Course (contingent from 1/18/89).

Contractor/Supervisor (contingent from 1/18/89).

(53)(a) *Training Provider:* International Association of Heat & Frost Insulators and Asbestos Workers Local #19.

Address: 9401 West Beloit Rd., #209, Milwaukee, WI 53227, Contact: Randall Gottsacker, Phone: (414) 321-2828.

(b) *Approved Courses:*

Abatement Worker (contingent from 12/29/88).

Abatement Worker Refresher Course (contingent from 1/26/89).

Contractor/Supervisor (contingent from 12/29/88).

Contractor/Supervisor Refresher Course (contingent from 1/26/89).

(54)(a) *Training Provider:* Kemron Environmental Services.

Address: 32740 Northwestern Hwy., Farmington Hills, MI 48018, Contact: Thomas J. Martin, Phone: (313) 626-2426.

(b) *Approved Courses:*

Contractor/Supervisor (contingent from 5/13/88).

Inspector/Management Planner (contingent from 3/25/88).

Inspector/Management Planner Refresher Course (contingent from 1/4/89).

(55)(a) *Training Provider:* Lepi Enterprises, Inc.

Address: 917 Main St., Dresden, OH 43821, Contact: James R. Lepi, Phone: (614) 754-1162.

(b) *Approved Course:*

Abatement Worker (contingent from 7/6/88).

(56)(a) *Training Provider:* Lyle Laboratories.

Address: 1327 King Ave., Columbus, OH 43212, Contact: Terri L. Williams, Phone: (614) 488-1022.

(b) *Approved Courses:*

Abatement Worker (contingent from 10/21/88).

Inspector/Management Planner (contingent from 6/30/88).

(57)(a) *Training Provider:* Mark A. Kriesemint, Ltd.

Address: P.O. Box 06198, Chicago, IL 60606-0198, Contact: Mark Kriesemint, Phone: (312) 463-0206.

(b) *Approved Course:*

Abatement Worker (contingent from 10/31/88).

(58)(a) *Training Provider:* Metropolitan Detroit AFL-CIO Training Center.

Address: 14333 Prairie, Detroit, MI 48238, Contact: Richard M. King, Phone: (313) 863-1000.

(b) *Approved Courses:*

Abatement Worker (contingent from 8/12/88).

Contractor/Supervisor (contingent from 8/12/88).

(59)(a) *Training Provider:* Michigan Laborer's Training Institute.

Address: 11155 South Beardslee Rd., Perry, MI 48872, Contact: Edwin H. McDonald, Phone: (517) 625-4919.

(b) *Approved Courses:*

Abatement Worker (contingent from 2/9/88).

Abatement Worker (full from 5/2/88).

Abatement Worker Refresher Course (contingent from 11/14/88).

Contractor/Supervisor (contingent from 4/6/88).

Contractor/Supervisor (full from 5/6/88).

Contractor/Supervisor Refresher Course (contingent from 11/14/88).

(60)(a) *Training Provider:* Midwest Center for Occupational Health & Safety.

Address: 640 Jackson St., St. Paul, MN 55101, Contact: Ruth K. McIntyre, Phone: (612) 221-3992.

(b) *Approved Courses:*

Abatement Worker (contingent from 9/16/88).

Contractor/Supervisor (full from 11/28/88).

Contractor/Supervisor Refresher Course (contingent from 12/1/88).

Inspector/Management Planner (contingent from 5/9/88).

Inspector/Management Planner (full from 5/23/88).

Inspector/Management Planner Refresher Course (contingent from 12/1/88).

(61)(a) *Training Provider:* Midwest Health Training.

Address: 3920 Central, Western Springs, IL 60558, Contact: H.C. Brown, Phone: (312) 246-9527.

(b) *Approved Courses:*

Abatement Worker (contingent from 3/25/88).

Abatement Worker (full from 4/25/88).

Abatement Worker Refresher Course (contingent from 9/15/88).

(62)(a) *Training Provider:* Milwaukee Asbestos Information Center.

Address: P.O. Box 62, Butler, WI 53007, Contact: Thomas R. Ortell, Phone: (414) 781-8700.

(b) *Approved Courses:*

Abatement Worker (contingent from 12/1/88).

Contractor/Supervisor (contingent from 12/1/88).

(63)(a) *Training Provider:* Moraine Valley Community College.

Address: 10900 South 88th Ave., Palos Hills, IL 60465, Contact: Richard Kukac, Phone: (312) 974-4300.

(b) *Approved Courses:*

Contractor/Supervisor (contingent from 8/12/88).

Contractor/Supervisor Refresher Course (contingent from 12/6/88).

Inspector/Management Planner (full from 2/9/88).

Inspector/Management Planner Refresher Course (contingent from 12/6/88).

(64)(a) *Training Provider:* National Institute for Abatement Education.

Address: 5501 Williamsburg Way #305, Madison, WI 53719, Contact: Dean Leischow, Phone: (608) 271-7281.

(b) *Approved Courses:*

Abatement Worker (contingent from 7/15/88).

Contractor/Supervisor (contingent from 7/15/88).

(65)(a) *Training Provider:* Northern Safety Consultants, Inc.

Address: 1406 Lincoln Ave., Marquette, MI 49855, Contact: Christopher M. Baker, Phone: (906) 228-5161.

(b) *Approved Courses:*

Abatement Worker (full from 5/31/88).

Contractor/Supervisor (full from 5/31/88).

Contractor/Supervisor Refresher Course (contingent from 10/7/88).

(66)(a) *Training Provider:* Northland Environmental Services, Inc.

Address: P.O. Box 909, Stevens Point, WI 54481, Contact: Bob Voborsky, Phone: (715) 341-9699.

(b) *Approved Courses:*



Abatement Worker (contingent from 1/18/89).

Abatement Worker Refresher Course (contingent from 1/18/89).

Contractor/Supervisor (contingent from 1/18/89).

Contractor/Supervisor Refresher Course (contingent from 1/18/89).

(67)(a) *Training Provider:* Nova Environmental Services.

Address: Suite 420 Hazeltine Gates, 1107 Hazeltine Blvd., Chaska, MN 55318, Contact: Deborah S. Green, Phone: (612) 448-9393.

(b) *Approved Courses:*

Abatement Worker (contingent from 12/24/87).

Contractor/Supervisor (contingent from 9/1/88).

(68)(a) *Training Provider:* Nova Environmental, Inc.

Address: 5340 Plymouth Rd., Suite 210, Ann Arbor, MI 48105, Contact: Kary S. Amin, Phone: (313) 930-0995.

(b) *Approved Courses:*

Abatement Worker (contingent from 5/13/88).

Contractor/Supervisor (contingent from 10/7/88).

Contractor/Supervisor Refresher Course (contingent from 10/7/88).

Inspector/Management Planner (contingent from 10/7/88).

Inspector/Management Planner Refresher Course (contingent from 11/14/88).

(69)(a) *Training Provider:* Ohio Asbestos Workers Council.

Address: 1216 East McMillan St., Room 107, Cincinnati, OH 45206, Contact: Larry Briley, Phone: (513) 221-5969.

(b) *Approved Courses:*

Contractor/Supervisor (contingent from 2/17/88).

Contractor/Supervisor (full from 5/12/88).

(70)(a) *Training Provider:* Ohio

Laborers' Training & Upgrading Trust Fund.

Address: 25721 Coshocton Rd., P.O. Box 218, Howard, OH 43028, Contact: John L. Railing, Phone: (614) 599-7915.

(b) *Approved Courses:*

Abatement Worker (full from 4/11/88).

Abatement Worker Refresher Course (contingent from 9/1/88).

Contractor/Supervisor (contingent from 7/27/88).

(71)(a) *Training Provider:* Peoria Public Schools.

Address: 3202 North Wisonson Ave., Peoria, IL 61603, Contact: Emil S. Steinseifer, Phone: (309) 672-6512.

(b) *Approved Course:*

Abatement Worker Refresher Course (contingent from 11/14/88).

(72)(a) *Training Provider:*

Professional Asbestos Labor Services, Inc.

Address: 1501 Martin Luther King Dr., Gary, IN 46407, Contact: George Bradley, Phone: (219) 883-8541.

(b) *Approved Courses:*

Abatement Worker (contingent from 5/18/88).

Abatement Worker Refresher Course (contingent from 12/5/88).

(73)(a) *Training Provider:*

Professional Service Industries, Inc.

Address: 510 East 22nd St., Lombard, IL 60148, Contact: W.K. Swartzendruber, Phone: (312) 691-1490.

(b) *Approved Course:*

Inspector/Management Planner (contingent from 12/15/88).

(74)(a) *Training Provider:* S.Z. Mansdorf & Associates, Inc.

Address: 2000 Chestnut Blvd., Cuyahoga Falls, OH 44223-1323, Contact: S.Z. Mansdorf, Phone: (216) 928-5434.

(b) *Approved Courses:*

Contractor/Supervisor (contingent from 1/15/88).

Contractor/Supervisor (full from 2/12/88).

Inspector/Management Planner (contingent from 8/24/88).

Inspector/Management Planner Refresher Course (contingent from 1/26/89).

(75)(a) *Training Provider:* Safety Training of Illinois.

Address: 1515 South Park, Springfield, IL 62704, Contact: S. David Farris, Phone: (217) 787-9091.

(b) *Approved Courses:*

Abatement Worker (full from 12/18/87).

Abatement Worker Refresher Course (contingent from 11/14/88).

(76)(a) *Training Provider:* Sierra Analytical & Consulting Services, Inc.

Address: 307 North First St., Ann Arbor, MI 48103, Contact: David Nelson, Phone: (313) 662-1155.

(b) *Approved Courses:*

Abatement Worker (contingent from 1/26/89).

Contractor/Supervisor (contingent from 1/26/89).

(77)(a) *Training Provider:* South East Michigan Committee on Occupational Safety and Health (SEMCOSH).

Address: 1550 Howard St., Detroit, MI 48216, Contact: Barbara Boylan, Phone: (313) 961-3345.

(b) *Approved Courses:*

Abatement Worker (contingent from 10/13/87).

Abatement Worker (full from 4/25/88).

(78)(a) *Training Provider:* Testing Engineers & Consultants, Inc.

Address: 1333 Rochester Rd., P.O. Box 249, Troy, MI 48099, Contact: Karl D. Agee, Phone: (313) 588-6200.

(b) *Approved Courses:*

Inspector/Management Planner (contingent from 5/9/88).

Inspector/Management Planner (full from 8/22/88).

(79)(a) *Training Provider:* The Brand Companies.

Address: 1420 Renaissance Dr., Park Ridge, IL 60068, Contact: Frank J. Barta, Phone: (312) 298-1200.

(b) *Approved Course:*

Abatement Worker (contingent from 1/4/89).

(80)(a) *Training Provider:* The Environmental Institute.

Address: 314 South State Ave., Indianapolis, IN 46201, Contact: Cindy Witte, Phone: (317) 269-3618.

(b) *Approved Course:*

Abatement Worker Refresher Course (contingent from 12/22/88).

(81)(a) *Training Provider:* The Safer Foundation.

Address: 571 W. Jackson Blvd., Chicago, IL 60606, Contact: Carol Bentley/Phil Bergmann, Phone: (312) 922-2200.

(b) *Approved Course:*

Abatement Worker (contingent from 9/15/88).

(82)(a) *Training Provider:* Tillotson Consulting & Training, Inc.

Address: 9332 Oakview, Portage, MI 49002, Contact: Michael R. Tillotson, Phone: (616) 323-2124.

(b) *Approved Courses:*

Abatement Worker (contingent from 12/29/88).

Abatement Worker Refresher Course (contingent from 12/11/88).

Contractor/Supervisor (contingent from 12/29/88).

Contractor/Supervisor Refresher Course (contingent from 12/11/88).

Inspector/Management Planner (contingent from 12/29/88).

Inspector/Management Planner Refresher Course (contingent from 12/11/88).

(83)(a) *Training Provider:* Trust Thermal Systems.

Address: 10445 Wright Rd., Eagle, MI 48822, Contact: Thomas Lowe, Phone: (517) 628-6791.

(b) *Approved Course:*

Abatement Worker (contingent from 9/1/88).

(84)(a) *Training Provider:* University of Cincinnati Medical Center Institute of Environmental Health, Kettering Laboratory.



Address: 3223 Eden Ave., ML 056,  
Cincinnati, OH 45267-0056, Contact:  
Judy L. Janell, Phone: (513) 558-1730.

(b) *Approved Courses:*

Abatement Worker (contingent from 11/14/88).

Abatement Worker (full from 11/15/88).

Contractor/Supervisor (full from 10/20/87).

Contractor/Supervisor Refresher Course (contingent from 10/7/88).

Inspector/Management Planner (full from 11/16/87).

Inspector/Management Planner Refresher Course (contingent from 12/1/88).

(85)(a) *Training Provider:* University of Illinois at Chicago M.A.I.C.

Address: Box 6998, Chicago, IL 60680,  
Contact: John J. Giammuto, Phone:  
(312) 996-6904.

(b) *Approved Courses:*

Abatement Worker (interim from 10/1/87 to 12/14/87).

Abatement Worker (contingent from 10/2/87).

Abatement Worker (full from 4/5/88).

Abatement Worker Refresher Course (contingent from 11/14/88).

Contractor/Supervisor (full from 8/1/86).

Inspector/Management Planner (contingent from 10/2/87).

Inspector/Management Planner (full from 10/21/87).

(86)(a) *Training Provider:* University of Wisconsin—Extension.

Address: 422 Lowell Hall, 610 Langdon St., Madison, WI 53703, Contact: Neil DeClercq, Phone: (608) 262-2111.

(b) *Approved Courses:*

Abatement Worker (full from 12/7/87).

Abatement Worker Refresher Course (contingent from 12/15/88).

Contractor/Supervisor (contingent from 2/2/88).

Contractor/Supervisor (full from 9/1/88).

Contractor/Supervisor Refresher Course (contingent from 12/15/88).

Inspector/Management Planner (contingent from 2/2/88).

Inspector/Management Planner (full from 2/22/88).

Inspector/Management Planner Refresher Course (contingent from 12/15/88).

Project Designer (contingent from 9/15/88).

(87)(a) *Training Provider:* William E. Fink & Associates.

Address: 3695 Indian Run, Suite #5, Canfield, OH 44406, Contact: William E. Fink, Phone: (216) 533-6299.

(b) *Approved Courses:*

Abatement Worker (contingent from 8/11/88).

Abatement Worker Refresher Course (contingent from 8/11/88).

(88)(a) *Training Provider:* Wisconsin Laborers' Training Center.

Address: P.O. Box 150, Almond, WI 54909, Contact: Dean Jensen, Phone: (715) 366-8221.

(b) *Approved Courses:*

Abatement Worker (contingent from 1/8/87).

Abatement Worker Refresher Course (contingent from 11/14/88).

Contractor/Supervisor (contingent from 12/1/88).

*Region VI—Dallas, TX*

*Regional Asbestos Coordinator:* John West, 6t-Pt, EPA, Region VI, 1445 Ross Avenue, Dallas, TX 75202-2733, (214) 655-7244, (FTS) 255-7244.

*List of Approved Courses:* The following training courses have been approved by EPA. The courses are listed under (b). This approval is subject to the level of certification indicated after the course name. Training Providers are listed in alphabetical order and do not reflect a prioritization. Approvals for Region VI training courses and contact points for each, are as follows:

(1)(a) *Training Provider:* AC & C Systems Corporation.

Address: 7801 North Robinson, Oklahoma City, OK 73116, Contact: Turner Stallings, Phone: (405) 842-9672.

(b) *Approved Courses:*

Abatement Worker (contingent from 10/20/88).

Contractor/Supervisor (contingent from 10/26/88).

(2)(a) *Training Provider:* Abateco, Inc.

Address: 10,000 Old Katy Rd., Suite 200, Houston, TX 77055, Contact: W.D. Heimbrook, Phone: (713) 461-0692.

(b) *Approved Course:*

Abatement Worker (contingent from 11/14/88).

(3)(a) *Training Provider:* American Specialty Contractors, Inc.

Address: P.O. Box 66375, Baton Rouge, LA 70896, Contact: Kurt Jones, Phone: (504) 926-9624.

(b) *Approved Courses:*

Abatement Worker (contingent from 11/18/88).

Contractor/Supervisor (contingent from 11/18/88).

(4)(a) *Training Provider:* Asbestos Surveys and Training, Inc.

Address: Three Riverway, Suite 760, Houston, TX 77056, Contact: Jesse Ashley, Phone: (713) 623-0025.

(b) *Approved Course:*

Abatement Worker (full from 10/22/87).

(5)(a) *Training Provider:* CERL, Inc.

Address: 1611 Calle Lorca, Suite B, Santa Fe, NM 87501, Contact: Michael Curtis, Phone: (505) 988-4143.

(b) *Approved Courses:*

Contractor/Supervisor (contingent from 4/22/88).

Inspector/Management Planner (contingent from 4/22/88).

(6)(a) *Training Provider:* Carpenters Apprenticeship Training School.

Address: 8505 Glen Vista, Houston, TX 77061, Contact: S.C. Strunk, Jr., Phone: (713) 641-1011.

(b) *Approved Course:*

Abatement Worker (contingent from 7/8/88).

Abatement Worker Refresher Course (contingent from 7/8/88).

(7)(a) *Training Provider:* Certified Asbestos Training Institute, Inc.

Address: 4202 Argentina Cir., Pasadena, TX 77504, Contact: Maurice Hoffpawier, Phone: (713) 487-3155.

(b) *Approved Course:*

Abatement Worker (contingent from 4/20/88).

(8)(a) *Training Provider:* Critical Environmental Training Center, Inc.

Address: 5815 Gulf Freeway, Houston, TX 77023, Contact: Ronald F. Dodson, Phone: (713) 921-8921.

(b) *Approved Courses:*

Abatement Worker (full from 4/14/88).

Abatement Worker Refresher Course (full from 10/27/88).

Contractor/Supervisor (full from 3/7/88).

Contractor/Supervisor Refresher Course (full from 10/27/88).

Inspector/Management Planner (contingent from 4/15/88).

Inspector/Management Planner (full from 10/27/88).

(9)(a) *Training Provider:* Environmental Institute.

Address: P.O. Box 270278, Dallas, TX 75227, Contact: R. Michael Wheeler, Phone: (214) 324-0774.

(b) *Approved Courses:*

Contractor/Supervisor (full from 1/11/88).

Inspector/Management Planner (full from 1/25/88).

(10)(a) *Training Provider:* Environmental Monitoring Service, Inc. (EMS).

Address: 13008 Amarillo Ave., Austin, TX 78729, Contact: Rick Pruett, Phone: (512) 335-9116.

(b) *Approved Courses:*

Abatement Worker (contingent from 7/27/88).



Contractor/Supervisor (contingent from 7/27/88).

(11)(a) *Training Provider:* Fort Worth Independent School District.

Address: 3210 West Lancaster, Fort Worth, TX 76107, Contact: H.D. Duncan, Phone: (817) 336-8311.

(b) *Approved Courses:*

Abatement Worker (contingent from 7/27/88).

Abatement Worker Refresher Course (contingent from 7/27/88).

(12)(a) *Training Provider:* GEBCO Associates, Inc.

Address: 1501 Norwood, Suite 142, Hurst, TX 76054-3638, Contact: Ed Kirch, Phone: (817) 268-4006.

(b) *Approved Courses:*

Abatement Worker (interim from 4/15/87 to 8/19/87).

Abatement Worker (full from 8/20/87).

Abatement Worker Refresher Course (contingent from 5/16/88).

Contractor/Supervisor (contingent from 3/15/88).

Contractor/Supervisor Refresher Course (contingent from 7/27/88).

Inspector/Management Planner (full from 3/7/88).

Inspector/Management Planner Refresher Course (contingent from 7/27/88).

(13)(a) *Training Provider:* Gary LaFrance Abatement Workers Training Program.

Address: 4802 Prestwick, Tyler, TX 75703, Contact: Gary G. LaFrance, Phone: (214) 581-8852.

(b) *Approved Course:*

Abatement Worker (contingent from 12/14/88).

(14)(a) *Training Provider:* International Association of Heat & Frost Insulators, Asbestos Workers Union Local #22.

Address: 3249 Pasadena Blvd., Pasadena, TX 77503, Contact: Owen Tilley, Phone: (713) 473-0888.

(b) *Approved Courses:*

Abatement Worker (interim from 10/1/87 to 12/14/87).

Abatement Worker (contingent from 10/5/87).

Abatement Worker (full from 3/22/88).

Abatement Worker Refresher Course (contingent from 10/5/87).

Contractor/Supervisor (full from 6/27/88).

(15)(a) *Training Provider:* Lafayette Parish School Board Asbestos Training Program.

Address: P.O. Drawer 2158, Lafayette, LA 70502, Contact: Salvador E. Longo, Phone: (504) 887-3740.

(b) *Approved Course:*

Contractor/Supervisor (contingent from 7/21/88).

(16)(a) *Training Provider:* Lamar University, Hazardous Materials Program.

Address: P.O. Box 10008, Beaumont, TX 77710, Contact: Marion Foster, Phone: (409) 880-2369.

(b) *Approved Courses:*

Abatement Worker (contingent from 7/19/88).

Contractor/Supervisor (contingent from 5/20/88).

Contractor/Supervisor Refresher Course (contingent from 10/24/88).

(17)(a) *Training Provider:* Little-Tex Insulation Co., Inc.

Address: 911 North Frio St., San Antonio, TX 78207, Contact: Dan Juepe, Phone: (512) 222-8094.

(b) *Approved Courses:*

Abatement Worker (contingent from 8/1/88).

Contractor/Supervisor (contingent from 8/1/88).

(18)(a) *Training Provider:* Louisiana Laborers Union-AGC Training Fund.

Address: P.O. Box 376, Livonia, LA 70755-0376, Contact: Jamie Peers, Phone: (504) 637-2311.

(b) *Approved Course:*

Abatement Worker (contingent from 7/15/88).

(19)(a) *Training Provider:* Louisiana State University Agricultural and Mechanical College.

Address: 361 Pleasant Hall, Baton Rouge, LA 70803-1520, Contact: George Smith, Phone: (504) 388-6621.

(b) *Approved Course:*

Abatement Worker (full from 1/1/88).

Abatement Worker Refresher Course (contingent from 11/16/88).

Contractor/Supervisor (contingent from 10/6/87).

Contractor/Supervisor (full from 4/7/88).

Contractor/Supervisor Refresher Course (contingent from 11/16/88).

Inspector/Management Planner (full from 1/18/88).

(20)(a) *Training Provider:* Maxim Engineers, Inc.

Address: 2342 Fabens, Dallas, TX 75229, Contact: Kyle B. Dotson, Phone: (214) 247-7575.

(b) *Approved Course:*

Abatement Worker (contingent from 1/6/89).

(21)(a) *Training Provider:* Meador-Wright & Associates, Inc.

Address: 5520 LBJ Freeway, Suite 204, Dallas, TX 75240, Contact: Paul Teel, Phone: (214) 788-1804.

(b) *Approved Course:*

Inspector (contingent from 7/27/88).

(22)(a) *Training Provider:* Moore-Norman Area Vocational Training School.

Address: 4701-12th Ave., NW, Norman, OK 73069, Contact: Frank Coulter, Phone: (405) 364-5763.

(b) *Approved Courses:*

Abatement Worker (full from 3/3/86).

Contractor/Supervisor (full from 3/3/86).

Inspector/Management Planner (contingent from 1/25/88).

Inspector/Management Planner (full from 4/4/88).

(23)(a) *Training Provider:* Nelson/Imel, Inc.

Address: 3900 Morrison Cir., Norman, OK 73072, Contact: Deborah Nelson, Phone: (405) 364-3278.

(b) *Approved Courses:*

Abatement Worker (contingent from 7/27/88).

Abatement Worker Refresher Course (contingent from 11/16/88).

(24)(a) *Training Provider:* Occonor-McMahon, Inc.

Address: 1210 Riverbend Dr., Suite 202, Dallas, TX 75247, Contact: James M. Walley, Phone: (214) 638-7322.

(b) *Approved Courses:*

Abatement Worker (contingent from 7/27/88).

(25)(a) *Training Provider:* Occupational Safety Training Institute.

Address: 9000 West Bellfort, Suite 440, Houston, TX 77031, Contact: Eva Bonilla, Phone: (713) 270-8882.

(b) *Approved Courses:*

Abatement Worker (contingent from 7/27/88).

Contractor/Supervisor (contingent from 7/27/88).

Contractor/Supervisor (full from 7/27/88).

Contractor/Supervisor Refresher Course (contingent from 12/8/88).

Inspector/Management Planner (contingent from 9/15/88).

(26)(a) *Training Provider:* Protechnics Environmental Services.

Address: 14760 Memorial Dr., Suite 105, Houston, TX 77079, Contact: Jesse Ashley, Phone: (713) 496-9874.

(b) *Approved Course:*

Abatement Worker (contingent from 1/5/89).

(27)(a) *Training Provider:* R & H Associates, Inc.

Address: 126 General Chennault NE, Albuquerque, NM 87198, Contact:



Rosanne Sanchez, Phone: (505) 275-1045.

(b) *Approved Courses:*

Abatement Worker (contingent from 1/12/89).

Contractor/Supervisor (contingent from 1/12/89).

Inspector/Management Planner (contingent from 1/12/89).

(28)(a) *Training Provider:* Region 6 Environmental Training.

Address: 13900 I.H. 35 North, Suite 2-1, Austin, TX 78728, Contact: Andrew Ramvel, Phone: (512) 251-2637.

(b) *Approved Courses:*

Abatement Worker (contingent from 7/27/88).

Contractor/Supervisor (contingent from 7/27/88).

(29)(a) *Training Provider:* SETCO Safety, ET.

Address: 1308 Upland, Houston, TX 77043, Contact: James Hoffpauir, Phone: (713) 468-4393.

(b) *Approved Course:*

Abatement Worker (contingent from 7/27/88).

(30)(a) *Training Provider:* Safety & Health Research Institute.

Address: 500 One Gallery Tower, 13355 Noel Rd., P.O. Box 612245, Dallas, TX 75261, Contact: Ted Davis, Phone: (214) 851-3536.

(b) *Approved Courses:*

Abatement Worker (contingent from 9/12/88).

Contractor/Supervisor (contingent from 9/12/88).

Inspector/Management Planner (contingent from 9/12/88).

(31)(a) *Training Provider:* Southwest Environmental Institute.

Address: P.O. Box 295, Abilene, TX 79604, Contact: Tom Dye, Phone: (915) 691-0189.

(b) *Approved Courses:*

Abatement Worker (contingent from 7/27/88).

Contractor/Supervisor (contingent from 10/20/88).

(32)(a) *Training Provider:* Texas Engineering Extension Service Building Codes Inspection Training Div.

Address: Texas A & M University System, College Station, TX 77843-8000, Contact: Richard Thompson, Phone: (409) 845-6682.

(b) *Approved Courses:*

Abatement Worker (full from 9/28/87).

Contractor/Supervisor (interim from 5/26/86 to 9/13/87).

Contractor/Supervisor (full from 9/14/87).

Inspector/Management Planner (full from 10/19/87).

(33)(a) *Training Provider:* Tulane University, School of Public Health and Tropical Medicine, Dept. of Environmental Health Sciences.

Address: 1430 Tulane Ave., New Orleans, LA 70112, Contact: Shau-Wong-Chang, Phone: (504) 588-5374.

(b) *Approved Courses:*

Contractor/Supervisor (interim from 3/17/87 to 9/14/87).

Contractor/Supervisor (full from 9/15/87).

Inspector/Management Planner (contingent from 5/20/88).

(34)(a) *Training Provider:* University of Arkansas at Little Rock Biology Department.

Address: 33rd & University, Little Rock, AR 72204, Contact: Phyllis Moore, Phone: (501) 569-3270.

(b) *Approved Course:*

Inspector/Management Planner (contingent from 4/20/88).

(35)(a) *Training Provider:* University of Texas at Arlington Civil Engineering Department.

Address: Box 19308, Arlington, TX 76019, Contact: Vic Argento, Phone: (817) 794-5644.

(b) *Approved Courses:*

Contractor/Supervisor (full from 7/14/86).

Contractor/Supervisor Refresher Course (full from 9/26/88).

Inspector/Management Planner (full from 10/19/87).

Inspector/Management Planner Refresher Course (full from 9/26/88).

(36)(a) *Training Provider:* Veltmann Engineering.

Address: 2403 Emerson Ct., Midland, TX 79705, Contact: Clyde Veltmann, Phone: (915) 682-6072.

(b) *Approved Courses:*

Abatement Worker (contingent from 7/27/88).

Contractor/Supervisor (contingent from 7/27/88).

(37)(a) *Training Provider:* Young Insulation Group of Amarillo, Inc.

Address: P.O. Box 5098, Amarillo, TX 79117, Contact: Dennis C. Clayton, Phone: (806) 372-4329.

(b) *Approved Courses:*

Abatement Worker (contingent from 7/27/88).

Abatement Worker Refresher Course (contingent from 7/27/88).

**REGION VII—Kansas City, KS**

*Regional Asbestos Coordinator:* Wolfgang Brandner, EPA Region VII, 728 Minnesota Ave., Kansas City, KS 66101. (913) 236-2835, (FTS) 757-2835.

*List of Approved Courses:* The following training courses have been

approved by EPA. The courses are listed under (b). This approval is subject to the level of certification indicated after the course name. Training Providers are listed in alphabetical order and do not reflect a prioritization. Approvals for Region VII training courses and contact points for each, are as follows:

(1)(a) *Training Provider:* Abatement Project Training.

Address: P.O. Box 4372, Kansas City, KS 66104, Contact: Virginia Ireton, Phone: (913) 788-3440.

(b) *Approved Courses:*

Abatement Worker (contingent from 12/15/88).

(2)(a) *Training Provider:* Aerostat Asbestos Engineering Consulting, Inc.

Address: 2817 Atchison Ave., Lawrence, KS 66046, Contact: Damir Joseph Stimac, Phone: (913) 749-4747.

(b) *Approved Courses:*

Abatement Worker (full from 5/9/88).

Contractor/Supervisor (full from 5/9/88).

Inspector/Management Planner (contingent from 3/14/88).

Inspector/Management Planner Refresher Course (contingent from 1/13/89).

(3)(a) *Training Provider:* American Asbestos Training Center, Ltd.

Address: 529 West First, Monticello, IA 52310, Contact: Steve Intlekofer, Phone: (319) 465-5555.

(b) *Approved Courses:*

Abatement Worker (full from 6/27/88).

Contractor/Supervisor (full from 6/27/88).

Inspector/Management Planner (full from 10/26/88).

(4)(a) *Training Provider:* Asbestos Consulting Testing (ACT).

Address: 14953 West 101st Ter., Lenexa, KS 66215, Contact: Jim Pickel, Phone: (913) 492-1337.

(b) *Approved Courses:*

Abatement Worker (full from 1/25/88).

Abatement Worker Refresher Course (contingent from 1/6/89).

Abatement Worker Refresher Course (full from 1/16/89).

Contractor/Supervisor (full from 1/25/88).

Contractor/Supervisor Refresher Course (contingent from 1/6/89).

Contractor/Supervisor Refresher Course (full from 1/16/89).

(5)(a) *Training Provider:* Chart Services, Inc.



Address: 4725 Merle Hay Rd., Suite 214, Des Moines, IA 50322, Contact: Mary A. Finn. Phone: (515) 276-3642.

(b) *Approved Courses:*

Abatement Worker (full from 11/17/87).

Abatement Worker Refresher Course (full from 10/17/88).

Contractor/Supervisor (full from 11/17/87).

Contractor/Supervisor Refresher Course (full from 10/17/88).

Inspector/Management Planner (full from 2/22/88).

Inspector/Management Planner Refresher Course (full from 11/28/88).

(6)(a) *Training Provider:* Construction Industry Laborers Training Institute for Eastern Missouri.

Address: Route 1, Box 79 H, High Hill, MO 63350, Contact: Jerald A. Pelker. Phone: (314) 585-2391.

(b) *Approved Course:*

Abatement Worker (full from 1/19/88).

(7)(a) *Training Provider:* Construction Laborers Building Corporation.

Address: Box 34549, Omaha, NE 68134. Contact: Jack Budd. Phone: (402) 572-0828.

(b) *Approved Course:*

Abatement Worker (full from 11/2/87).

(8)(a) *Training Provider:* Enviro-Impact Inspections.

Address: 1515 North Wason, Suite 213, St. Louis, MO 63132, Contact: Denis Boles, Phone: (314) 426-0087.

(b) *Approved Courses:*

Abatement Worker (contingent from 3/8/88).

Contractor/Supervisor (contingent from 3/8/88).

(9)(a) *Training Provider:* Environmental Salvage, Ltd.

Address: 25 South 15th St., Suite 6A, Council Bluffs, IA 51501, Contact: Tracey Coates, Phone: (712) 323-1836.

(b) *Approved Courses:*

Abatement Worker (contingent from 1/12/89).

Contractor/Supervisor (contingent from 1/12/89).

(10)(a) *Training Provider:* Environmental Technology, Inc.

Address: 4315 Merriam Dr., Overland Park, KS 66203, Contact: Mike Franano, Phone: (913) 236-5040.

(b) *Approved Course:*

Abatement Worker (full from 2/29/88).

(11)(a) *Training Provider:* Flint Hills Area Vocational-Technical School.

Address: 3301 West 18th Ave., Emporia, KS 66801, Contact: Jim Krueger, Phone: (316) 342-6404.

(b) *Approved Course:*

Abatement Worker (full from 3/7/88).

(12)(a) *Training Provider:* General Services Administration (GSA).

Address: 1500 East Bannister Rd., Kansas City, MO 64131-3088, Contact: Sharon Kersey, Phone: (816) 926-5318.

(b) *Approved Course:*

Inspector/Management Planner (full from 5/16/88).

(13)(a) *Training Provider:* Greater Kansas City Laborers Training Fund.

Address: 8944 Kaw Dr., Kansas City, KS 66111, Contact: James D. Barnett, Phone: (913) 441-6100.

(b) *Approved Courses:*

Abatement Worker (contingent from 4/15/88).

Abatement Worker (full from 5/2/88).

Contractor/Supervisor (full from 5/2/88).

(14)(a) *Training Provider:* Hall-Kimbrell Training Center.

Address: 4840 West 15th St., Lawrence, KS 66046, Contact: Alice Hart, Phone: (800) 637-0129.

(b) *Approved Courses:*

Abatement Worker (full from 8/17/87).

Abatement Worker Refresher Course (contingent from 9/19/88).

Abatement Worker Refresher Course (full from 10/19/88).

Contractor/Supervisor (full from 8/17/87).

Contractor/Supervisor Refresher Course (contingent from 9/19/88).

Contractor/Supervisor Refresher Course (full from 10/20/88).

Inspector/Management Planner (full from 8/17/87).

Inspector/Management Planner Refresher Course (contingent from 9/19/88).

Project Designer (full from 8/17/87).

Project Designer Refresher Course (contingent from 9/19/88).

Project Designer Refresher Course (full from 12/20/88).

(15)(a) *Training Provider:* Hazard Control Training Enterprises, Inc.

Address: P.O. Box 20594, Wichita, KS 67208, Contact: Karen Alexander, Phone: (316) 778-1153.

(b) *Approved Courses:*

Abatement Worker (contingent from 10/19/88).

Contractor/Supervisor (contingent from 10/19/88).

(16)(a) *Training Provider:* Insulators & Asbestos Workers Midwest States Health & Training Council.

Address: Rural Route #2, Wahoo, NE 68066, Contact: Ray Richmond, Phone: (402) 443-4810.

(b) *Approved Courses:*

Abatement Worker (full from 6/28/88).

Contractor/Supervisor (full from 6/28/88).

(17)(a) *Training Provider:* International Association of Heat & Frost Insulators & Asbestos Workers Local Union #1.

Address: 3325 Hollenberg Dr., St. Louis, MO 63044, Contact: James Hagen, Phone: (314) 291-7399.

(b) *Approved Courses:*

Abatement Worker (full from 6/6/88).

Contractor/Supervisor (full from 9/16/88).

(18)(a) *Training Provider:* Iowa Dept. of Education.

Address: Grimes State Office Bldg., Des Moines, IA 50319, Contact: Milt Wilson, Phone: (515) 287-4743.

(b) *Approved Course:*

Inspector/Management Planner (full from 4/4/88).

(19)(a) *Training Provider:* Iowa Laborer's District Council Training Fund.

Address: 5806 Meredith Dr., Des Moines, IA 50322, Contact: Jack G. Jones, Phone: (515) 270-6965.

(b) *Approved Courses:*

Abatement Worker (contingent from 4/20/88).

Abatement Worker (full from 6/14/88).

Contractor/Supervisor (contingent from 10/14/88).

(20)(a) *Training Provider:* Kansas Construction Laborers' Training Trust Fund.

Address: 2430 Marlatt Ave., Manhattan, KS 66502, Contact: Fred Tipton, Phone: (913) 267-0140.

(b) *Approved Courses:*

Abatement Worker (contingent from 4/15/88).

Abatement Worker (full from 5/2/88).

Contractor/Supervisor (full from 5/2/88).

(21)(a) *Training Provider:* Living Word College.

Address: 2750 McKelvey Rd., St. Louis, MO 63043, Contact: Donald C. Femmer, Phone: (314) 291-2749.

(b) *Approved Course:*

Inspector/Management Planner (full from 4/18/88 to 5/2/88).

(22)(a) *Training Provider:* Maple Woods Community College.

Address: 10771 Ambassador Dr., Kansas City, MO 64133, Contact: James C. Lauer, Phone: (816) 436-6500.

(b) *Approved Courses:*

Abatement Worker (full from 2/1/88).

Abatement Worker Refresher Course (contingent from 1/10/89).



Contractor/Supervisor (full from 3/28/88).  
 Contractor/Supervisor Refresher Course (contingent from 1/10/89).  
 Inspector/Management Planner (contingent from 4/20/88).  
 Inspector/Management Planner (full from 5/2/88).  
 (23)(a) *Training Provider:* Mayhew Environmental Training Associates, Inc. (META).

Address: P.O. Box 1961, Lawrence, KS 66044, Contact: Brad Mayhew, Phone: (800) 444-6382.

(b) *Approved Courses:*

Abatement Worker (contingent from 10/5/87).  
 Abatement Worker (full from 10/20/87).  
 Abatement Worker Refresher Course (full from 11/14/88).  
 Contractor/Supervisor (contingent from 10/5/87).  
 Contractor/Supervisor (full from 10/20/87).  
 Contractor/Supervisor Refresher Course (full from 11/14/88).  
 Inspector/Management Planner (contingent from 8/8/88).  
 Inspector/Management Planner (full from 8/8/88).  
 Inspector/Management Planner Refresher Course (contingent from 1/30/89).

(24)(a) *Training Provider:* Midwest Environmental Testing & Training.  
 Address: 635 Southwest 2nd St., Box 1029, Lee's Summit, MO 64063, Contact: Steve Minshall, Phone: (816) 525-6681.

(b) *Approved Courses:*

Abatement Worker (full from 5/9/88).  
 Contractor/Supervisor (full from 5/9/88).

(25)(a) *Training Provider:* Miton, Inc.  
 Address: P.O. Box 1582, Branson, MO 65616, Contact: Tony Williams, Phone: (417) 335-6743.

(b) *Approved Course:*

Inspector/Management Planner (full from 3/14/88).  
 (26)(a) *Training Provider:* National Asbestos Training Center, University of Kansas.

Address: 6600 College Blvd., Suite 315, Overland Park, KS 66211, Contact: Lani Himegarner, Phone: (913) 491-0181.

(b) *Approved Courses:*

Abatement Worker (full from 7/27/87).  
 Abatement Worker Refresher Course (contingent from 10/5/88).  
 Contractor/Supervisor (interim from 6/1/85 to 7/26/87).  
 Contractor/Supervisor (contingent from 10/5/87).

Contractor/Supervisor (full from 7/27/88).  
 Contractor/Supervisor Refresher Course (contingent from 10/5/88).  
 Contractor/Supervisor Refresher Course (full from 1/25/89).  
 Inspector/Management Planner (full from 10/26/87).  
 Inspector/Management Planner Refresher Course (contingent from 10/5/88).  
 Inspector/Management Planner Refresher Course (full from 1/25/89).  
 (27)(a) *Training Provider:* Professional Safety & Health Services Training Center.

Address: 410 Mansion House Center, St. Louis, MO 63102, Contact: Carol Hoag, Phone: (314) 621-6838.

(b) *Approved Courses:*

Abatement Worker (contingent from 12/15/88).  
 Abatement Worker (full from 11/28/88).  
 Contractor/Supervisor (contingent from 12/15/88).  
 Contractor/Supervisor (full from 11/28/88).  
 Inspector/Management Planner (full from 6/23/88).  
 Inspector/Management Planner Refresher Course (contingent from 1/26/89).

(28)(a) *Training Provider:* Roth Asbestos Consultants, Inc.  
 Address: 1900 West 47th Pl., Westwood, KS 66205, Contact: Don Welsh, Phone: (913) 831-4795.

(b) *Approved Course:*

Inspector/Management Planner Refresher Course (contingent from 1/18/89).  
 (29)(a) *Training Provider:* Ryckman's Emergency Action Consulting Team (REACT).

Address: 2208 Welsch Industrial Ct., St. Louis, MO 63146, Contact: D. W. Ryckman, Phone: (800) 325-1399.

(b) *Approved Courses:*

Abatement Worker (full from 7/26/88).  
 Contractor/Supervisor (full from 7/26/88).

**REGION VIII—Denver, CO**

*Regional Asbestos Coordinator:* David Combs, [8AT-TS], EPA, Region VIII, 1 Denver Place, 999-18th St., R. 1300, Denver, CO 80202-2413. (303) 293-1744, (FTS) 564-1744.

*List of Approved Courses:* The following training courses have been approved by EPA. The courses are listed under (b). This approval is subject to the level of certification indicated after the course name. Training Providers are listed in alphabetical order and do not reflect a prioritization. Approvals for

Region VIII training courses and contact points for each, are as follows:

(1)(a) *Training Provider:* Colorado Carpenters Statewide Joint Apprenticeship Educational & Training Committee.

Address: 4290 Holly St., Denver, CO 80216, Contact: Stephen L. Sanford, Phone: (303) 393-6060.

(b) *Approved Courses:*

Abatement Worker (contingent from 12/1/88).  
 Abatement Worker (full from 12/19/88).

(2)(a) *Training Provider:* Colorado State University Dept. of Industrial Sciences, Office of Research, Development & Training.

Address: Fort Collins, CO 80523, Contact: Birgit Wolff, Phone: (303) 491-1551.

(b) *Approved Courses:*

Abatement Worker (contingent from 8/23/88).  
 Abatement Worker Refresher Course (contingent from 12/29/88).  
 Contractor/Supervisor (contingent from 12/29/88).  
 Contractor/Supervisor Refresher Course (contingent from 12/29/88).  
 Inspector/Management Planner (contingent from 3/14/88).  
 Inspector/Management Planner (full from 5/23/88).

Inspector/Management Planner Refresher Course (contingent from 12/29/88).

(3)(a) *Training Provider:* Colorado Training Institute.

Address: 1210 East Colfax, Suite 306, Denver, CO 80218, Contact: Peter Amory, Phone: (303) 860-0574.

(b) *Approved Courses:*

Abatement Worker (contingent from 10/31/88).  
 Abatement Worker Refresher Course (contingent from 12/29/88).  
 Contractor/Supervisor (contingent from 10/31/88).  
 Contractor/Supervisor Refresher Course (contingent from 12/29/88).

(4)(a) *Training Provider:* Energy Insulation, Inc. (EII).

Address: P.O. Box 1996, Casper, WY 82602, Contact: David K. Fox, Phone: (307) 473-1247.

(b) *Approved Courses:*

Abatement Worker (contingent from 5/18/88).  
 Abatement Worker (full from 6/22/88).

(5)(a) *Training Provider:* Envir-o-tech.

Address: 300 Moore Ln., Billings, MT 59102, Contact: Les Nelson, Phone: (800) 225-4899.

(b) *Approved Course:*



Abatement Worker (full from 7/6/88).

(6)(a) *Training Provider:* Hager Laboratories, Inc.

Address: 11234 East Caley Ave., Unit A, Englewood, CO 80111, Contact: Steve Herron, Phone: (303) 790-2727.

(b) *Approved Courses:*

Abatement Worker (full from 3/28/88).

Abatement Worker Refresher Course (contingent from 10/7/88).

Contractor/Supervisor (full from 3/28/88).

Contractor/Supervisor Refresher Course (contingent from 10/7/88).

Inspector/Management Planner (contingent from 4/20/88).

Inspector/Management Planner (full from 5/2/88).

Inspector/Management Planner Refresher Course (contingent from 10/7/88).

(7)(a) *Training Provider:* Industrial Health, Inc.

Address: 640 East Wilmington Ave., Salt Lake City, UT 84106, Contact: Donald E. Marano, Phone: (801) 466-2223.

(b) *Approved Courses:*

Abatement Worker (contingent from 1/4/89).

Contractor/Supervisor (contingent from 4/22/88).

Inspector/Management Planner Refresher Course (contingent from 12/29/88).

Inspector/Management Planner Refresher Course (full from 1/6/89).

(8)(a) *Training Provider:* Major Safety, Inc.

Address: 6390 Joyce Dr., #201, Golden, CO 80403, Contact: Tom Major, Phone: (303) 424-7874.

(b) *Approved Courses:*

Abatement Worker (contingent from 1/28/88).

Abatement Worker Refresher Course (contingent from 1/18/89).

Contractor/Supervisor (contingent from 1/18/89).

Contractor/Supervisor Refresher Course (contingent from 1/18/89).

Inspector/Management Planner (contingent from 1/2/88).

Inspector/Management Planner Refresher Course (contingent from 1/18/89).

Project Designer (contingent from 1/28/88).

Project Designer Refresher Course (contingent from 1/18/89).

(9)(a) *Training Provider:* Midwest Asbestos Consultants, Inc. (MAC).

Address: Box 1708, Fargo, ND 58107, Contact: Jerry Day, Phone: (701) 280-2286.

(b) *Approved Course:*

Abatement Worker (contingent from 8/11/88).

(10)(a) *Training Provider:* Misers Inspection & Training, Inc.

Address: 1600 South Cherokee St., Denver, CO 80223, Contact: Michael DiRito, Phone: (303) 761-8860.

(b) *Approved Courses:*

Abatement Worker (contingent from 6/17/88).

Abatement Worker (full from 7/5/88).

Abatement Worker Refresher Course (contingent from 11/14/88).

Contractor/Supervisor (contingent from 6/17/88).

Contractor/Supervisor (full from 7/5/88).

Contractor/Supervisor Refresher Course (contingent from 11/14/88).

(11)(a) *Training Provider:* NATEC International.

Address: 2761 West Oxford Ave., #7, Englewood, CO 80110, Contact: James Maxwell, Phone: (303) 825-6513.

(b) *Approved Course:*

Abatement Worker (contingent from 4/15/88).

(12)(a) *Training Provider:* Northern Engineering & Testing, Inc.

Address: 600 South 25th St., P.O. Box 30615, Billings, MT 59107, Contact: Kathleen A. Smit, Phone: (406) 248-9161.

(b) *Approved Courses:*

Abatement Worker (contingent from 10/1/87).

Abatement Worker (full from 12/8/87).

Contractor/Supervisor (contingent from 10/31/88).

(13)(a) *Training Provider:* Power Masters, Inc.

Address: 13205 South State St., Draper, UT 84020, Contact: Debora Bastian, Phone: (801) 571-9321.

(b) *Approved Course:*

Abatement Worker (contingent from 6/13/88).

(14)(a) *Training Provider:* Precision Safety & Services, Inc.

Address: 1245 Windemaker Ln., Colorado Springs, CO 80907, Contact: James R. Maples, Jr., Phone: (719) 593-8596.

(b) *Approved Courses:*

Abatement Worker (contingent from 8/11/88).

Abatement Worker (full from 11/2/88).

(15)(a) *Training Provider:* R.S. Christiansen Asbestos Consultant.

Address: 4980 Holladay Blvd., Salt Lake City, UT 84117, Contact: R.S. Christiansen, Phone: (801) 277-2323.

(b) *Approved Courses:*

Abatement Worker (contingent from 7/29/88).

Abatement Worker (full from 12/7/88).

(16)(a) *Training Provider:* South Dakota State University College of Engineering.

Address: Box 2218, Brookings, SD 57007-0597, Contact: James Ceglian, Phone: (605) 688-4101.

(b) *Approved Courses:*

Contractor/Supervisor (contingent from 5/18/88).

Inspector/Management Planner (contingent from 5/18/88).

(17)(a) *Training Provider:* The University of Utah, Rocky Mountain Center for Occupational & Environmental Health.

Address: Dept. of Family & Preventive Medicine, Building 512, Salt Lake City, UT 84112, Contact: Jeffery S. Lee, Phone: (801) 581-8719.

(b) *Approved Courses:*

Abatement Worker (contingent from 9/27/88).

Contractor/Supervisor (contingent from 10/1/87).

Contractor/Supervisor (full from 11/16/87).

Contractor/Supervisor Refresher Course (contingent from 7/6/88).

Contractor/Supervisor Refresher Course (full from 11/14/88).

Inspector/Management Planner (contingent from 12/23/87).

Inspector/Management Planner (full from 2/8/88).

Inspector/Management Planner Refresher Course (contingent from 12/29/88).

Inspector/Management Planner Refresher Course (full from 12/13/88).

#### REGION IX—San Francisco, CA

*Regional Asbestos Coordinator:* Jo Ann Semones, [T-52], EPA, Region IX, 215 Fremont St., San Francisco, CA 94105, (415) 974-7290, (FTS) 454-7290.

*List of Approved Courses:* The following training courses have been approved by EPA. The courses are listed under (b). This approval is subject to the level of certification indicated after the course name. Training Providers are listed in alphabetical order and do not reflect a prioritization. Approvals for Region IX training courses and contact points for each, are as follows:

(1)(a) *Training Provider:* Asbestos Workers Abatement Training Program of Southern California.

Address: 1669 East Lincoln Ave., Orange, CA 92655-1929, Contact: James Riley, Phone: (714) 921-8110.

(b) *Approved Courses:*

Abatement Worker (contingent from 5/27/88).

Contractor/Supervisor (contingent from 1/26/89).



(2)(a) *Training Provider:* Carpenters  
46 Northern California Counties J.A.T.C.  
& T.B.

Address: 2350 Santa Rita Rd.,  
Pleasanton, CA 94566-4190, Contact:  
Hugh Johnson, Phone: (415) 462-9640.

(b) *Approved Course:*

Contractor/Supervisor (contingent from  
12/1/88).

(3)(a) *Training Provider:* Center for  
Accelerated Learning.

Address: 400 Buck Ave., Suite G,  
Vacaville, CA 95688, Contact: David  
Esparza, Phone: (707) 446-7996.

(b) *Approved Courses:*

Abatement Worker Refresher Course  
(contingent from 1/18/89).

Contractor/Supervisor Refresher Course  
(contingent from 1/18/89).

Inspector/Management Planner  
(contingent from 6/30/88).

(4)(a) *Training Provider:* Dan Napier &  
Associates.

Address: 15342 Hawthorne Blvd., Suite  
207, P.O. Box 1540, Lawndale, CA  
90260-6440, Contact: Dan Napier,  
Phone: (213) 644-1924.

(b) *Approved Courses:*

Abatement Worker (contingent from 1/  
15/88).

Abatement Worker Refresher Course  
(contingent from 1/18/89).

Contractor/Supervisor Refresher Course  
(contingent from 1/18/89).

(5)(a) *Training Provider:* Diagnostic  
Engineering, Inc.

Address: 55 West Sierra Madre Blvd.,  
Sierra Madre, CA 91024, Contact: Jane  
P. Rowcliffe, Phone: (818) 355-8011.

(b) *Approved Courses:*

Abatement Worker (contingent from 10/  
27/88).

Contractor/Supervisor (contingent from  
6/27/88).

Inspector/Management Planner  
(contingent from 6/27/88).

Project Designer (contingent from 12/1/  
88).

(6)(a) *Training Provider:* EnviroMed,  
Inc.

Address: 2200 East River Rd., Suite 122,  
Tucson, AZ 85718, Contact: Rose  
Rubio, Phone: (602) 577-0818.

(b) *Approved Course:*

Inspector/Management Planner  
(contingent from 11/14/88).

(7)(a) *Training Provider:*  
Environmental Control Industries.

Address: 5720 Shattuck Ave., Oakland,  
CA 94609, Contact: Richard  
McGlothlin, Phone: (415) 655-5855.

(b) *Approved Course:*

Abatement Worker (contingent from 12/  
1/88).

(8)(a) *Training Provider:*  
Environmental Sciences, Inc.

Address: 375 South Meyer, Tucson, AZ  
85701, Contact: Paula Keyes, Phone:  
(602) 792-0097.

(b) *Approved Courses:*

Inspector/Management Planner  
(contingent from 9/29/87).

Inspector/Management Planner (full  
from 10/5/87).

Inspector/Management Planner  
Refresher Course (contingent from 11/  
14/88).

(9)(a) *Training Provider:* Excel  
Environmental, Inc.

Address: 739 Allston Way, Berkeley, CA  
94710, Contact: Otis Wong, Phone:  
(415) 548-4300.

(b) *Approved Courses:*

Abatement Worker (contingent from 12/  
28/87).

Abatement Worker Refresher Course  
(contingent from 12/1/88).

Contractor/Supervisor (contingent from  
5/26/88).

Contractor/Supervisor Refresher Course  
(contingent from 12/1/88).

(10)(a) *Training Provider:* Hawaii  
Laborers' Training School.

Address: P.O. Box 457, Aiea, HI 96701,  
Contact: Norman Jimeno, Phone: (808)  
488-6161.

(b) *Approved Course:*

Abatement Worker (contingent from 5/  
27/88).

(11)(a) *Training Provider:* Hess & Hess  
Construction, Inc.

Address: 8627 East Center St., P.O. Box  
228, Mokelumne Hill, CA 95245,  
Contact: Lee Hess, Phone: (209) 286-  
1472.

(b) *Approved Course:*

Contractor/Supervisor (contingent from  
10/31/88).

(12)(a) *Training Provider:* Insulators  
and Asbestos Industry of Northern  
California & Local #16 Asbestos  
Training Fund.

Address: 2829 Fillmore St., Alameda, CA  
94501, Contact: Hans D. Siebert,  
Phone: (415) 522-7048.

(b) *Approved Course:*

Abatement Worker (contingent from 5/  
27/88).

(13)(a) *Training Provider:*  
International Technology Corporation.

Address: 336 West Anaheim St.,  
Wilmington, CA 90744, Contact: Keith  
Soebe, Phone: (213) 830-1781.

(b) *Approved Courses:*

Abatement Worker (contingent from 12/  
24/87).

Contractor/Supervisor (contingent from  
4/15/88).

(14)(a) *Training Provider:* KELCO  
Training Institute.

Address: 44814 Osgood Rd., Fremont,  
CA 94539, Contact: Charles W.  
Kellogg, Phone: (415) 651-7401.

(b) *Approved Courses:*

Abatement Worker (contingent from 6/  
1/88).

Contractor/Supervisor (contingent from  
7/20/88).

Contractor/Supervisor Refresher Course  
(contingent from 10/31/88).

(15)(a) *Training Provider:* Laborers  
Training & Retraining Trust Fund for  
Northern California.

Address: 21321 San Ramon Valley Blvd.,  
San Ramon, CA 94583, Contact:  
Marvin D. Johnson, Phone: (415) 828-  
2513.

(b) *Approved Courses:*

Abatement Worker (contingent from 6/  
13/88).

Abatement Worker Refresher Course  
(contingent from 12/15/88).

(16)(a) *Training Provider:* Laborers  
Training & Trust Fund for Southern  
California.

Address: P.O. Box 76, Anza, CA 92306-  
0076, Contact: Mary Lacy, Phone: (714)  
763-4341.

(b) *Approved Course:*

Abatement Worker (contingent from 6/  
30/88).

(17)(a) *Training Provider:* Lehr  
Training Institute.

Address: 1431 Warner Ave., Tustin, CA  
92680, Contact: Susan Patnode, Phone:  
(714) 259-1575.

(b) *Approved Courses:*

Abatement Worker (contingent from 2/  
16/88).

Contractor/Supervisor (contingent from  
2/16/88).

Inspector/Management Planner  
(contingent from 10/31/88).

(18)(a) *Training Provider:* National  
Abatement Technology Employment  
Center (NATEC).

Address: 13692 Newhope Ave., Garden  
Grove, CA 92643, Contact: Ronald  
Sandlin, Phone: (714) 530-0407.

(b) *Approved Courses:*

Abatement Worker (contingent from 12/  
30/87).

Abatement Worker Refresher Course  
(contingent from 11/14/88).

Contractor/Supervisor (contingent from  
12/30/87).

Contractor/Supervisor Refresher Course  
(contingent from 11/14/88).

(19)(a) *Training Provider:* National  
Institute for Asbestos & Hazardous  
Waste Training.



Address: 1019 West Manchester Blvd., Inglewood, CA 90301, Contact: Jim McFarland, Phone: (213) 645-4516.

(b) *Approved Courses:*

Abatement Worker (full from 12/7/87).  
Abatement Worker Refresher Course (contingent from 10/19/88).  
Contractor/Supervisor (full from 12/7/87).  
Contractor/Supervisor Refresher Course (contingent from 10/19/88).  
Inspector/Management Planner (contingent from 6/30/88).  
Inspector/Management Planner Refresher Course (contingent from 11/14/88).

(20)(a) *Training Provider:* Pacific Asbestos Information Center, U.C. Extension

Address: 2223 Fulton St., Berkeley, CA 94720, Contact: Debra Dobbin, Phone: (415) 643-7143.

(b) *Approved Courses:*

Contractor/Supervisor (full from 2/2/87).  
Contractor/Supervisor Refresher Course (contingent from 10/19/88).  
Inspector/Management Planner (full from 11/16/87).  
Inspector/Management Planner Refresher Course (contingent from 10/19/88).

(21)(a) *Training Provider:* San Diego County District Council of Carpenters.  
Address: 4665 Mercury St., San Diego, CA 92111, Contact: Otis Kunz, Phone: (619) 571-8977.

(b) *Approved Course:*

Contractor/Supervisor (contingent from 10/31/88).

(22)(a) *Training Provider:* The Asbestos Institute.

Address: 2701 East Camelback, #381, Phoenix, AZ 85016, Contact: William T. Cavness, Phone: (602) 381-0896.

(b) *Approved Courses:*

Abatement Worker (contingent from 6/30/88).  
Abatement Worker Refresher Course (contingent from 10/31/88).  
Contractor/Supervisor (contingent from 6/13/88).

Inspector/Management Planner (contingent from 6/17/88).

(23)(a) *Training Provider:* University Associates, Ltd.

Address: 2425-A North Huachuca Dr., Tucson, AZ 85745, Contact: Carolyn Coker, Phone: (602) 624-9366.

(b) *Approved Course:*

Inspector/Management Planner (contingent from 12/1/88).

(24)(a) *Training Provider:* University of Southern California Institute of Safety & Systems Management.

Address: University Gardens, 3500 South Figueroa, #202, Los Angeles, CA 90007, Contact: James O. Pierce, Phone: (213) 743-8523.

(b) *Approved Course:*

Inspector/Management Planner (contingent from 7/27/88).

*Region X—Seattle, WA*

*Regional Asbestos Coordinator:*  
Walter Jasper, EPA, Region X, 1200 Sixth Ave. (AT-083), Seattle, WA 98101. (206) 442-4762, (FTS) 399-2870.

*List of Approved Courses:* The following training courses have been approved by EPA. The courses are listed under (b). This approval is subject to the level of certification indicated after the course name. Training Providers are listed in alphabetical order and do not reflect a prioritization. Approvals for Region X training courses and contact points for each, are as follows:

(1)(a) *Training Provider:* Asbestos Services International.

Address: 12360 Southwest Butner Rd., Portland, OR 97225-5818, Contact: Robert E. Hasting, Phone: (503) 644-0246.

(b) *Approved Courses:*

Inspector/Management Planner (contingent from 8/23/88).  
Inspector/Management Planner Refresher Course (contingent from 10/31/88).  
Inspector/Management Planner Refresher Course (full from 1/20/89).  
Project Designer (contingent from 10/31/88).  
Project Designer (full from 1/17/89).

(2)(a) *Training Provider:* Certified Industrial Hygiene Services, Inc.

Address: 911 Western Ave., Suite 206, Seattle, WA 98104, Contact: Eileen Kirkpatrick, Phone: (206) 783-9506.

(b) *Approved Course:*

Inspector (contingent from 3/25/88).

(3)(a) *Training Provider:* Engineering Continuing Education, University of Washington.

Address: GG-13, Seattle, WA 98195, Contact: Creighton Depew, Phone: (206) 543-5339.

(b) *Approved Courses:*

Inspector/Management Planner (contingent from 1/26/88).  
Inspector/Management Planner (full from 2/8/88).

(4)(a) *Training Provider:* Environmental Health Sciences, Lake Washington Vo-Tech.

Address: 11605 132nd Ave., NE, Kirkland, WA 98304, Contact: Dave Rodewald, Phone: (206) 828-5643.

(b) *Approved Courses:*

Inspector/Management Planner (full from 4/11/88).

Inspector/Management Planner Refresher Course (contingent from 12/1/88).

(5)(a) *Training Provider:*

Environmental Management, Inc.

Address: P.O. Box 91477, Anchorage, AK 99509, Contact: Kenneth Johnson, Phone: (907) 272-8056.

(b) *Approved Course:*

Inspector/Management Planner (full from 4/18/88).

(6)(a) *Training Provider:* Hazcon, Inc., Health Hazard Control Services.

Address: 5950 6th Ave., S, Suite 216, Seattle, WA 98108, Contact: Mike Krause, Phone: (206) 763-7364.

(b) *Approved Courses:*

Inspector/Management Planner (contingent from 3/1/88).

Inspector/Management Planner (full from 4/4/88).

Inspector/Management Planner Refresher Course (contingent from 1/18/89).

(7)(a) *Training Provider:* Heavey Engineers, Inc.

Address: 113 Russell St., P.O. Box 832, Stevenson, WA 98648-0832, Contact: Robert T. Taylor, Phone: (509) 427-8936.

(b) *Approved Courses:*

Inspector/Management Planner (contingent from 6/2/88).

Inspector/Management Planner (full from 6/24/88).

Inspector/Management Planner Refresher Course (contingent from 1/18/89).

(8)(a) *Training Provider:* Mining & Petroleum Training Services.

Address: 155 Smith Way, Suite 104, Soldotna, AK 99669, Contact: Dennis Steffy, Phone: (907) 262-2788.

(b) *Approved Course:*

Inspector/Management Planner Refresher Course (contingent from 1/4/89).

(9)(a) *Training Provider:* Northwest Envirocon, Inc.

Address: 181 A St., Washougal, WA 98671, Contact: Randy Hall, Phone: (206) 835-8576.

(b) *Approved Courses:*

Inspector/Management Planner (contingent from 4/13/88).

Inspector/Management Planner (full from 5/2/88).

(10)(a) *Training Provider:* PBS Environmental Building Consultant, Inc.

Address: 1220 South West Morrison, Portland, OR 97205, Contact: John Perkins, Phone: (503) 248-1939.

(b) *Approved Courses:*



Inspector/Management Planner  
(contingent from 2/4/88).

Inspector/Management Planner (full  
from 3/14/88).

(11)(a) *Training Provider:* University  
of Alaska, Mining and Petroleum  
Training Services.

Address: 155 Smith Way, Suite 104,  
Soldotna, AK 99669, Contact: Dennis  
D. Steffy, Phone: (907) 262-2788.

(b) *Approved Courses:*

Inspector/Management Planner  
(contingent from 2/16/88).

Inspector/Management Planner (full  
from 4/11/88).

#### V. List of EPA—Accredited Polarized Light Microscopy (PLM) Laboratories

##### A. Background

Section 206(d) of Title II states that  
EPA must provide for the development  
of an accreditation program through the  
National Institute of Standards and  
Technology (NIST), formerly the  
National Bureau of Standards (NBS), for  
laboratories conducting analysis of bulk  
samples of asbestos-containing  
materials. NIST began initial  
evaluations of enrolled laboratories in  
October 1988 and will accredit PLM  
laboratories in the Spring of 1989. To  
provide LEAs with a listing of  
accredited laboratories until NIST  
completes its laboratory evaluations,  
EPA established the "Interim Asbestos  
Bulk Sample Analysis Quality  
Assurance Program." EPA announced  
the program in the Federal Register of  
September 30, 1987 (52 FR 33470).

The following listing includes  
commercial laboratories which have  
successfully participated in the April  
1988 round of the EPA Interim Asbestos  
Bulk Sample Analysis Quality  
Assurance Program and have extended  
their interim EPA accreditation beyond  
its expiration date of January 12, 1989,  
by fully enrolling in the NIST program  
by the stated deadline of September 30,  
1988. Noncommercial laboratories have  
not been included in this listing;  
however, a listing of accredited  
noncommercial laboratories is available  
and may be obtained by contacting the  
EPA Regional Asbestos Coordinators  
(RAC). This listing is effective on  
January 12, 1989.

##### B. Transition From EPA to NIST Accredited Laboratories

The commercial laboratories included  
in this listing have completed final  
application to NIST for enrollment in the  
National Voluntary Laboratory  
Accreditation Program (NVLAP) for  
PLM laboratories. These laboratories  
have extended their EPA-accredited

status until NIST evaluated the  
laboratory in the NVLAP program. Note,  
NIST may at any point in the laboratory  
review determine that the laboratory is  
deficient and request EPA to remove the  
interim EPA accreditation based on a  
laboratory site visit and/or proficiency  
testing. If a laboratory is found to be  
deficient in any part of the evaluation,  
NIST will not accredit the laboratory  
until the corrections have been made.  
NIST will also notify EPA of the  
deficiencies, and EPA will withdraw  
interim EPA accreditation.

Local education agencies (LEA) may  
determine whether a laboratory is  
currently accredited by contacting the  
laboratory and the local EPA Regional  
Asbestos Coordinator (RAC). This  
listing of laboratories may be consulted  
as a source of local laboratories;  
however, since NIST has begun its  
evaluations, the list could change prior  
to the next published listing of  
accredited laboratories. Additional  
copies of this listing and the  
noncommercial are available by calling  
(202) 544-1404.

EPA Accredited Commercial PLM  
Laboratories

##### REGION I—Boston, MA

*Regional Asbestos Coordinator:* Joe  
DeCola, EPA, Region I, Air and  
Management Division (APT-2311), JFK  
Federal Building, Boston, MA 02203.  
(617) 565-3835, (FTS) 835-3835.

(1) *Laboratory:* ACMAT.

Address: 116 Stoner Dr., West Hartford,  
CT 06107, Contact: Arthur C. Cosmas,  
Phone: (203) 289-6493.

(2) *Laboratory:* Aetna Life & Casualty,  
Engineering Department W101.

Address: 151 Farmington Ave., Hartford,  
CT 06156, Contact: Edward B. Engel,  
Phone: (203) 683-3665.

(3) *Laboratory:* Air Quality  
Consultants.

Address: 406 Libbey Parkway,  
Weymouth, MA 02189, Contact: John  
E. O'Malley, Phone: (617) 337-7320.

(4) *Laboratory:* Analytical Testing  
Services.

Address: 180 Weeden St., Pawtucket, RI  
02860-1804, Contact: Robert F.  
Weisberg, Phone: (401) 723-7978.

(5) *Laboratory:* Applied Occupational  
Health Systems.

Address: 29 River Rd., Suite 18, Concord,  
NH 03301, Contact: Richard R.  
Kretovich, Phone: (603) 228-3610.

(6) *Laboratory:* Balsam Environmental  
Consultants, Inc.

Address: 59 Stiles Rd., Salem, NH 03079,  
Contact: Tara E. Smith, Phone: (603)  
893-0616.

(7) *Laboratory:* Barnes and Jarvis, Inc.  
Address: 216 Tremont St., Boston, MA  
02116, Contact: Linda Goudreau,  
Phone: (617) 542-6521.

(8) *Laboratory:* Briggs Associates, Inc.  
Address: 400 Hingham St., Rockland,  
MA 02370, Contact: James Litrides,  
Phone: (617) 871-6040.

(9) *Laboratory:* Brooks Laboratories,  
Inc.

Address: 44 Codfish Lane, Weston, CT  
06883, Contact: Margaret Y. Brooks,  
Phone: (203) 226-6970.

(10) *Laboratory:* CON-TEST, Inc.  
Address: 126 Shaker Rd., East  
Longmeadow, MA 01028, Contact:  
Thomas E. Veratti, Phone: (413) 525-  
1198.

(11) *Laboratory:* CT State Dept. of  
Health Lab.

Address: P.O. Box 1689, Hartford, CT  
06101, Contact: Janet B. Kapish,  
Phone: (203) 566-5626.

(12) *Laboratory:* Certified Engineering  
& Testing Co., Inc.

Address: 25 Mathewson Dr., Weymouth,  
MA 02189, Contact: Glenn Sylvester,  
Phone: (617) 337-7887.

(13) *Laboratory:* Certified Engineering  
& Testing Co., Inc.

Address: 400 Smith St., Providence, RI  
02908, Contact: Deborah A. Pereira,  
Phone: (401) 831-9090.

(14) *Laboratory:* Chem Scope Inc.

Address: P.O. Box 389, Fair Haven  
Station, New Haven, CT 06513,  
Contact: Ronald D. Arena, Phone:  
(203) 468-0055.

(15) *Laboratory:* Covino  
Environmental Consultants, Inc.

Address: 12 Walnut Hill Park, Woburn,  
MA 01801, Contact: Samuel J. Covino,  
Jr., Phone: (617) 933-2555.

(16) *Laboratory:* Dennison  
Environmental, Inc.

Address: 35H Industrial Pkwy., Woburn,  
MA 01801, Contact: James E.  
Dennison, Phone: (617) 932-9400.

(17) *Laboratory:* EHL, Division of  
Cigna Corp.

Address: 94 Murphy Rd., Hartford, CT  
06114, Contact: Jim Kenny, Phone:  
(203) 522-3814.

(18) *Laboratory:* ESA Laboratories.  
Address: 43 Wiggins Ave., Bedford, MA  
01730, Contact: Reg Griffin, Phone:  
(617) 275-0100.

(19) *Laboratory:* Eastern Analytical  
Laboratories, Inc.

Address: 149 Rangeway Rd., North  
Billerica, MA 01862, Contact: Drew  
Killius, Phone: (617) 272-5212.

(20) *Laboratory:* Enviro-Lab, Inc.



Address: 154 Grove St., Chicopee, MA 01020, Contact: Peter R. Tuttle, Phone: (413) 592-0030.

(21) *Laboratory:* Enviromed Services, Inc.

Address: 25 Science Park, New Haven, CT 06511, Contact: William G. Oldman, Phone: (203) 786-5580.

(22) *Laboratory:* Environmental Associates, Inc.

Address: 1222 Fairfield Ave., Bridgeport, CT 06605, Contact: Ralph B. Wiech, Phone: (203) 368-6064.

(23) *Laboratory:* Environmental Field Services, Inc.

Address: 63 Elm St., Topsham, ME 04086, Contact: Joanna L. Eaton, Phone: (207) 725-4112.

(24) *Laboratory:* Hub Testing Laboratory.

Address: 95 Beaver St., Waltham, MA 02154, Contact: Fred Boyle, Phone: (617) 893-8330.

(25) *Laboratory:* Hunter Environmental Sciences, Inc.

Address: P.O. Box 284, Lincoln, MA 01773, Contact: W. Bruce Hunter, Phone: (617) 259-0800.

(26) *Laboratory:* Hygeia, Inc.

Address: 303 Bear Hill Rd., Waltham, MA 02154, Contact: John R. Pilling, Phone: (617) 647-9475.

(27) *Laboratory:* Hygenix, Inc.

Address: 40 Hoyt St., Stamford, CT 06905, Contact: Robert C. Brown, Phone: (203) 324-2222.

(28) *Laboratory:* Hygienetics Analytical Services, Inc.

Address: 150 Causeway St., Boston, MA 02114, Contact: Jack Yee, Sr., Phone: (617) 723-4664.

(29) *Laboratory:* Industrial Hygiene/New England.

Address: P.O. Box 947, Kennebunk, ME 04043, Contact: Thomas F. Hatch, Phone: (207) 985-6110.

(30) *Laboratory:* Kaselaan & D'Angelo Assoc., Inc.

Address: 500 Victory Rd., Marina Bay N., Quincy, MA 02171, Contact: Louis P. Solebello, Jr., Phone: (617) 523-2211.

(31) *Laboratory:* MMR, Inc.

Address: P.O. Box 810, 241 West Boylston St., West Boylston, MA 01583, Contact: Donald Pellegrino, Phone: (617) 835-6262.

(32) *Laboratory:* Massachusetts Institute of Technology, Industrial Hygiene Office.

Address: 77 Massachusetts Ave., Rm. 20C-204, Cambridge, MA 02139, Contact: Bonnie L. Weeks, Phone: (617) 253-2596.

(33) *Laboratory:* Mystic Air Quality Consultants, Inc.

Address: 1085 Buddington Rd., Groton, CT 06340, Contact: Christopher J. Eident, Phone: (203) 449-8903.

(34) *Laboratory:* Northeast Environmental Testing Lab., Inc.

Address: 51 Sockanossett Crossroads, Cranston, RI 02910, Contact: Carmine J. Spinella, Phone: (401) 785-1720.

(35) *Laboratory:* Northeast Test Consultants.

Address: 587 Spring St., Westbrook, ME 04092, Contact: Stephen Broadhead, Phone: (207) 854-3939.

(36) *Laboratory:* R.I. Analytical Laboratories, Inc.

Address: 231 Elm St., Warwick, RI 02888, Contact: Anthony E. Perrotti, Phone: (401) 467-2452.

(37) *Laboratory:* Shelburne Laboratories, Inc.

Address: P.O. Box 458, Shelburne, VT 05482, Contact: Robert J. Emerson, Phone: (802) 985-3379.

(38) *Laboratory:* TRC Environmental Consultants, Inc.

Address: 800 Connecticut Blvd., East Hartford, CT 06108, Contact: Paul Hunt, Phone: (203) 289-8631.

(39) *Laboratory:* The Hartford Steam Boiler I & I Co. Environmental Services Laboratory.

Address: One State St., Hartford, CT 06102, Contact: Floyd B. Parsons, Jr., Phone: (203) 722-5476.

(40) *Laboratory:* Travelers Insurance-Engr. Lab.

Address: 248 Constitution Plaza, Hartford, CT 06183, Contact: Amita Sanghvi, Phone: (203) 277-7533.

#### REGION II—Edison, NJ

*Regional Asbestos Coordinator:* Arnold Freiburger, EPA, Region II, Woodbridge Ave., Raritan Depot, Bldg. 10, (ES-PTS), Edison, NJ 08837. (201) 321-6668, (FTS) 340-8671.

(1) *Laboratory:* ASTECO, Inc.

Address: P.O. Box 2204, Niagara University, NY 14109, Contact: Fred Smith, Phone: (716) 297-5992.

(2) *Laboratory:* ATC Environmental, Inc.

Address: 104 East 25th St., New York, NY 10010, Contact: Robert Adamson, Phone: (212) 353-8280.

(3) *Laboratory:* Adelaide Environmental Health Associates.

Address: 61 Front St., Binghamton, NY 13905-4705, Contact: Brian Donnelly/Steve Karpinski, Phone: (607) 722-6839.

(4) *Laboratory:* Adelaide Environmental Health Associates.

Address: 117 East Pond Rd., Suite 200, White Plains, NY 10601, Contact: Ernest Coon, Phone: (914) 949-3109.

(5) *Laboratory:* Alternative Ways, Inc. Address: P.O. Box 1147, 100 Essex Rd., Bellmawr, NJ 08031, Contact: John Luxford, Phone: (609) 933-3300.

(6) *Laboratory:* Ambient Labs, Inc.

Address: 85 Chambers St., New York, NY 10007, Contact: William A. Esposito, Phone: (212) 962-4242.

(7) *Laboratory:* Analytical Electron Microscopy, Inc.

Address: P.O. Box 1147, 100 Essex Rd., Bellmawr, NJ 08031, Contact: Perry Cohn, Phone: (609) 933-1663.

(8) *Laboratory:* Applied Environmental Technology, Inc.

Address: 218 Cooper Center, Pennsauken, NJ 08109, Contact: Willard Kingsley, Phone: (609) 468-9200.

(9) *Laboratory:* Applied Geo Services, Inc.

Address: 300 Park Ave., S., 15th Fl., New York, NY 10010, Contact: Jeffrey A. Forgang, Phone: (201) 750-4514.

(10) *Laboratory:* Asbesto-Tech.

Address: 140-30 Elgar Pl., Suite 30-B, Bronx, NY 10475, Contact: Solomon Mate, Phone: (212) 671-5266.

(11) *Laboratory:* Asbestos Consultancy Service, Inc., Holiday Bldg.

Address: 121 State Highway 36, West Long Branch, NJ 07784, Contact: George Forrest, Phone: (201) 571-1400.

(12) *Laboratory:* Assessment Technologies, Inc.

Address: 323 West 39th St., New York, NY 10018, Contact: Richard W. Holmes, Phone: (201) 391-1495.

(13) *Laboratory:* Astech, Inc.

Address: 317 West Milton Ave., Rahway, NJ 07065, Contact: Michael Matarazzo, Phone: (201) 398-4455.

(14) *Laboratory:* Atlantic Environmental, Inc.

Address: 2 East Blackwell St., Suite 24, Dover, NJ 07801, Contact: Robert Sheriff, Phone: (201) 366-4660.

(15) *Laboratory:* Barnes and Jarnis/Hygeia Joint Office.

Address: 116 East 27th St., 5th Fl., New York, NY 10016, Contact: Carlett Grey-Golding, Phone: (212) 532-6433.

(16) *Laboratory:* Brad Associates.

Address: 1 Rosanne Ct., Lake Ronkonkoma, NY 11779, Contact: Benito P. San Pedro, Phone: (516) 467-4539.

(17) *Laboratory:* Buck Engineering & Environmental Laboratory.

Address: 100 Tompkins St., Courtland, NY 13045, Contact: John H. Buck, Phone: (607) 753-3403.



**(18) Laboratory: Buffalo Testing Labs., Inc.**

Address: 902 Kenmore Ave., Buffalo, NY 14216, Contact: Edward J. Kris, Phone: (716) 873-2302.

**(19) Laboratory: Bulava Environmental, Inc.**

Address: 13 Hunt Club Rd., Belle Mead, NJ 08502, Contact: Edward J. Bulava, Phone: (201) 874-6207.

**(20) Laboratory: CS Environmental Laboratory, Inc.**

Address: 5854 Butternut Dr., East Syracuse, NY 13057, Contact: Ida J. Bennett, Phone: (315) 446-8795.

**(21) Laboratory: Calibrations.**

Address: P.O. Box 11266, Albany, NY 12211, Contact: Sascha Perent, Phone: (518) 786-1865.

**(22) Laboratory: Certified Engineering & Testing Company of Upstate New York, Inc.**

Address: 284 Genesee St., Utica, NY 13502, Contact: Mark S. Evans, Phone: (315) 732-3826.

**(23) Laboratory: Chenango Environmental Laboratory, Inc.**

Address: 349 Chenango St., Binghamton, NY 13901, Contact: John D. Meade, Phone: (607) 723-7968.

**(24) Laboratory: Clayton Environmental Consultants, Inc.**

Address: 160 Fieldcrest Ave., Raritan Center, Edison, NJ 08837, Contact: Kirit H. Vora, Phone: (201) 225-6040.

**(25) Laboratory: Corning Eng. Environmental Services, Corning Glass Works.**

Address: One Malcolm Ave., Teterboro, NJ 07608, Contact: John C. Walton, Phone: (201) 393-5647.

**(26) Laboratory: Detail Associates, Inc.**

Address: 601 Piermont Rd., Demarest, NJ 07627, Contact: Stephen A. Jaraczewski, Phone: (201) 786-7059.

**(27) Laboratory: Dunn Geoscience Corp.**

Address: 12 Metro Park Rd., Albany, NY 12205, Contact: James R. Dunn, Phone: (518) 458-1313.

**(28) Laboratory: ENTEK**

Environmental & Tech. Services, Rennselaer Technology Park.

Address: 125 DeFreest Dr., Troy, NY 12180, Contact: Arthur N. Rohl, Phone: (518) 283-9200.

**(29) Laboratory: Eastern Analytical Services, Inc.**

Address: 225 Westchester Ave., Port Chester, NY 10573, Contact: Christopher Corrado, Phone: (914) 939-6992.

**(30) Laboratory: Ecology & Environment, Inc.**

Address: 4285 Genesee St., Buffalo, NY 14225, Contact: Gary Hahn, Phone: (716) 631-0360.

**(31) Laboratory: Electron-Microscopy Service Laboratories, Inc.**

Address: 108 Haddon Ave., Westmont, NJ 08108, Contact: Peter Frasca, Phone: (609) 858-4800.

**(32) Laboratory: Enviro-Probe, Inc.**

Address: 2917 Bruckner Blvd., Bronx, NY 10461, Contact: Ved P. Kukreja, Phone: (212) 863-0045.

**(33) Laboratory: Enviro-Probe, Inc.**

Address: 17 Heritage Dr., Edison, NJ 08820, Contact: Ved P. Kukreja, Phone: (201) 769-0274.

**(34) Laboratory: Environmental Health Protection Consultants, Inc.**

Address: 46 Ivy Ln., Cherry Hill, NJ 08002, Contact: Joseph E. Wilson, Phone: (609) 779-1372.

**(35) Laboratory: Environmental Management Systems, Inc.**

Address: 14 Sarafian Rd., New Paltz, NY 12561, Contact: Martin S. Rutstein, Phone: (914) 255-1034.

**(36) Laboratory: Environmental Monitoring and Consulting Services.**

Address: P.O. Box 872, Somerville, NJ 08876, Contact: Joel Russell, Phone: (201) 249-3005.

**(37) Laboratory: Exxon Biomedical Sciences, Inc., IH Analytical Laboratory.**

Address: Mettlers Road, CN2350, East Millstone, NJ 08875-2350, Contact: John E. Stillman, Phone: (201) 873-6033.

**(38) Laboratory: Friends Laboratory, Inc.**

Address: 448 Broad St., Waverly, NY 14892-1445, Contact: Douglas Friend, Phone: (607) 565-2893.

**(39) Laboratory: Galson Technical Services.**

Address: 6601 Kirkville Rd., East Syracuse, NY 13057, Contact: Eva Galson, Phone: (315) 432-0506.

**(40) Laboratory: Glomar Corp.**

Address: 29-09 Queens Plaza N., Long Island City, NY 11101, Contact: Richard J. Deliberto, Phone: (718) 766-6660.

**(41) Laboratory: Hall-Kimbrell Environmental Services.**

Address: 129-09 28 Ave., Flushing, NY 11354-1166, Contact: John F. Cesario, Phone: (718) 445-9090.

**(42) Laboratory: Hillman Environmental Co.**

Address: 427 Chestnut St., Union, NJ 07083, Contact: Joseph P. Hillman, Phone: (201) 686-3335.

**(43) Laboratory: Independent Asbestos Labs, Inc.**

Address: 5900 Butternut Dr., East Syracuse, NY 13057, Contact: Fred Terracina, Phone: (315) 437-1122.

**(44) Laboratory: Independent Testing & Consultation, Inc.**

Address: P.O. Box 539, Holmdel, NJ 07733, Contact: Anthony Matthews, Phone: (201) 583-2538.

**(45) Laboratory: Industrial Testing Laboratories.**

Address: 50 Madison Ave., New York, NY 10010, Contact: Kenneth J. Kohlhof, Phone: (212) 685-8788.

**(46) Laboratory: International Asbestos Testing Laboratories (IATL).**

Address: 36 North Pine Ave., Maple Shade, NJ 08052, Contact: Emil M. Ondra, Phone: (609) 779-7792.

**(47) Laboratory: Kaselaan & D'Angelo Associates, Inc.**

Address: P.O. Box 165, Haddonfield, NJ 08033, Contact: James J. Weitzman, Phone: (609) 547-6500.

**(48) Laboratory: Kemron Environmental Services.**

Address: 755 New York Ave., Huntington, NY 11743, Contact: Joseph Mannetta, Phone: (516) 427-0950.

**(49) Laboratory: Laboratories for Environmental Testing.**

Address: P.O. Box 8381, Long Island City, NY 11101, Contact: Michael A. Martucci, Phone: (718) 786-5583.

**(50) Laboratory: Laboratory Testing Services, Inc.**

Address: 75 Urban Ave., Westbury, NY 11590, Contact: Kevin Tumulty, Phone: (516) 334-7770.

**(51) Laboratory: Lozier Laboratories.**

Address: 23 North Main St., Fairport, NY 14450, Contact: Alan J. Laffin, Phone: (716) 223-7610.

**(52) Laboratory: Microscopy Research Laboratories, Inc.**

Address: 1167 Highway 28, P.O. Box 5115, North Branch, NJ 08876, Contact: Edwin R. Levin, Phone: (201) 526-9192.

**(53) Laboratory: National Testing Laboratories, Inc.**

Address: 27-14 39th Ave., Long Island City, NY 11101, Contact: Allen Ross, Phone: (718) 764-2626.

**(54) Laboratory: Northeastern Analytical Corp.**

Address: Evesham Corporation Center, 4 East Stow Rd., Unit 10, Marlton, NJ 08053, Contact: William Harris, Phone: (609) 651-1441.

**(55) Laboratory: O'Brien and Gere Engineers, Inc.**

Address: Box 4873, 1304 Buckley Rd., Syracuse, NY 13221, Contact:



Swiatoslaw W. Kaczmar, Phone: (315) 451-4700.

(56) *Laboratory*: PMK Eng. & Testing, Inc.

Address: 516 Bloy St., Hillside, NJ 07205, Contact: James Ferris, Phone: (201) 686-0044.

(57) *Laboratory*: Pedneault Associates, Inc.

Address: 1615 Ninth Ave., Bohemia, NY 11716, Contact: John Pedneault, Phone: (516) 467-8477.

(58) *Laboratory*: Phoenix Safety Associates, Ltd.

Address: 37-41 30th St., Long Island City, NY 11101, Contact: F. Michael Finnerty, Phone: (718) 786-5522.

(59) *Laboratory*: Powel Environmental Services, Inc.

Address: Suite 9A, Camp Meeting Grounds, Delanco, NJ 08075, Contact: Michael D. Moschella, Phone: (609) 764-8886.

(60) *Laboratory*: Princeton Testing Laboratory.

Address: P.O. Box 3108, Princeton, NJ 08540, Contact: David Kichula, Phone: (609) 452-9050.

(61) *Laboratory*: Professional Service Ind., Inc.

Address: 423A New Karner Rd., Albany, NY 12205, Contact: Mark Wysin, Phone: (518) 452-0777.

(62) *Laboratory*: Public Service Testing Laboratories, Inc.

Address: 37-31 57th St., Woodside, NY 11377, Contact: Stephen DiMartino, Phone: (718) 476-9202.

(63) *Laboratory*: TAKA Asbestos Analytical Services.

Address: P.O. Box 208, Greenlawn, NY 11740, Contact: Thomas A. Kubic, Phone: (516) 261-2117.

(64) *Laboratory*: Testwell Craig Lab, Inc.

Address: 47 Hudson St., Ossining, NY 10562, Contact: Marco J. Pedone, Phone: (914) 762-9000.

(65) *Laboratory*: Testwell Craig Laboratories of Albany, Inc.

Address: 518 Clinton Ave., Albany, NY 12206, Contact: Stanley P. Purzycki, Phone: (518) 436-4114.

(66) *Laboratory*: Testwell Craig Laboratories, Inc.

Address: 50 Passaic Ave., Fairfield, NJ 07006, Contact: Marco J. Pedone, Phone: (201) 882-8377.

(67) *Laboratory*: Testwell Craig Testing Laboratories.

Address: 565 East Harding Highway, Mays Landing, NJ 08330, Contact: Joseph Gigliotti, Phone: (609) 625-1700.

(68) *Laboratory*: U.S. Testing Company, Inc., Environmental Sciences Division.

Address: 1415 Park Ave., Hoboken, NJ 07030, Contact: Ellen McCabe Noyes, Phone: (201) 792-2400.

#### Region III—Philadelphia, PA

##### Regional Asbestos Coordinator:

Carole Dougherty, EPA, Region III (3HW-40), 841 Chestnut Bldg., Philadelphia, PA 19107. (215) 597-9859, (FTS) 597-3160.

(1) *Laboratory*: A.F. Meyer & Associates, Inc.

Address: 6845 Elm St., Suite 700, McLean, VA 22101, Contact: Jorge Rangel, Jr., Phone: (703) 734-9093.

(2) *Laboratory*: AGX, Inc.

Address: Freedom Professional Bldg., Suite 3B, 1341 Old Freedom Rd., Mars, PA 16046, Contact: Kimberly Allison, Phone: (412) 776-1905.

(3) *Laboratory*: AMA Analytical Services.

Address: 4475 Forbes Blvd., Lanham, MD 20706, Contact: Bruce Lippy, Phone: (301) 459-2640.

(4) *Laboratory*: ASBESTECH Division.

Address: P.O. Box 98, Dunbar, WV 25064, Contact: John Richard Hart, Phone: (304) 766-6224.

(5) *Laboratory*: ATEC Associates of Virginia, Inc.

Address: 2551 Eltham Ave., Suite Z, Norfolk, VA 23513, Contact: Richard A. Vogel, Jr., Phone: (804) 857-6765.

(6) *Laboratory*: ATEC Associates, Inc., Industrial Hygiene Division.

Address: 8989 Herrmann Dr., Columbia, MD 21045-8780, Contact: Paul A. Esposito, Phone: (301) 381-0232.

(7) *Laboratory*: Academy of IRM, Inc.

Address: 1600 Winchester Rd., Annapolis, MD 21401, Contact: Bobby E. Leonard, Phone: (301) 757-6503.

(8) *Laboratory*: Accredited Environmental Technologies, Incorporated.

Address: 28 North Pennell Rd., Lima, PA 19037, Contact: Jack Carney, Phone: (215) 891-0114.

(9) *Laboratory*: Advanced Analytical Laboratories, Inc.

Address: RD-1 Rt 309, P.O. Box E, Drums, PA 18222, Contact: Thomas Martinelli, Phone: (717) 788-5110.

(10) *Laboratory*: Air Quality Analysis Associates.

Address: 1337 Perry Ave., Morgantown, WV 26505, Contact: John T. Jenkovic, Phone: (304) 599-0023.

(11) *Laboratory*: Allegheny Mountain Research, Occupational Health Division.

Address: RD 1, Box 243A, Berlin, PA 15530-9546, Contact: Victor Kawchak, Phone: (814) 267-4404.

(12) *Laboratory*: Altest Environmental Labs.

Address: 28 West Main St., Plymouth, PA 18651, Contact: Frank Egenski, Phone: (717) 779-5377.

(13) *Laboratory*: American Medical Laboratories, Inc.

Address: 2000 Breomo Rd., Suite 204, Richmond, VA 23226, Contact: Robert Murphy, Phone: (703) 691-9100.

(14) *Laboratory*: Analytics.

Address: P.O. Box 25249, Richmond, VA 23260, Contact: James Calpin, Phone: (804) 353-8973.

(15) *Laboratory*: Analytics Laboratory Inc., Subs. of Roche Biomedical Laboratories, Inc.

Address: 2843 Duke St., Alexandria, VA 22314, Contact: Eugene Buie, Phone: (703) 370-7900.

(16) *Laboratory*: Analytics Laboratory, Inc., Subs. of Roche Biomedical Laboratories, Inc.

Address: 1003 Norfolk Square, Norfolk, VA 23502, Contact: Christie Buie, Phone: (804) 857-0675.

(17) *Laboratory*: Apex Environmental, Inc.

Address: 7930 Old Georgetown Rd., Bethesda, MD 20814, Contact: Frank G. Fitzpatrick, Phone: (301) 657-2739.

(18) *Laboratory*: Applied Environmental Health & Safety, Inc.

Address: Reston International Center, 11800 Sunrise Valley Dr., Suite 1230, Reston, VA 22091, Contact: Jana Ambrose, Phone: (703) 648-0822.

(19) *Laboratory*: Asbestos Testing, Inc. Industrial Hygienist.

Address: 5207 Noyes Ave., Charleston, WV 25304, Contact: John S. Ferrell, Phone: (304) 925-6795.

(20) *Laboratory*: BCM Lab Division.

Address: 1850 Gravers Rd., Norristown, PA 19401, Contact: John J. Tobin, Phone: (215) 275-1190.

(21) *Laboratory*: Batta Environmental Associates.

Address: P.O. Box 9722, Newark, DE 19711-9722, Contact: Steve Cahill, Phone: (302) 737-3376.

(22) *Laboratory*: Biospherics, Inc.

Address: 12051 Indian Creek Ct., Beltsville, MD 20705, Contact: Len Burelli, Phone: (301) 369-3900.

(23) *Laboratory*: Briggs Associates, Inc.

Address: 8300 Guilford Rd., Suite E, Columbia, MD 21046, Contact: J. Ross Voorhees, Phone: (301) 621-8730.



- (24) *Laboratory*: Brujos Scientific, Inc.  
Address: 505 Drury Ln., Baltimore, MD 21229, Contact: Robert Olcerst, Phone: (301) 566-0859.
- (25) *Laboratory*: Camtech, Inc.  
Address: McKnight-Ivory Bldg., Suite #202, 4550 McKnight Rd., Pittsburgh, PA 15237, Contact: Michael A. Campbell, Phone: (412) 931-1210.
- (26) *Laboratory*: Commonwealth Laboratory, Inc.  
Address: Chemists Bldg., P.O. Box 8025, Richmond, VA 23223, Contact: Edwin Cox III, Phone: (804) 648-8358.
- (27) *Laboratory*: Cumberland Analytical Labs., Inc.  
Address: 56 North Second St., Chambersburg, PA 17201, Contact: D. R. Richner, Jr., Phone: (717) 263-5943.
- (28) *Laboratory*: Eagle Industrial Hygiene Association, Incorporated.  
Address: 10220 Selmer Place, Philadelphia, PA 19116, Contact: Keith Crawford, Phone: (215) 677-9736.
- (29) *Laboratory*: Enviro Dynamics, Inc. Occupational & Environmental Health Consultants.  
Address: 3800 Fairfax Dr., Suite 8, Arlington, VA 22203, Contact: Michele M. Cody, Phone: (703) 522-2622.
- (30) *Laboratory*: Environmental Laboratories, Inc.  
Address: 103 South Leadbetter Rd., Ashland, VA 23005, Contact: Terry W. Hall, Phone: (804) 798-1589.
- (31) *Laboratory*: Environmental Management Group, Inc.  
Address: 9841 Broden Land Pkwy., Suite 117, Columbia, MD 21046, Contact: Patrick Thomas Connor, Phone: (301) 290-7078.
- (32) *Laboratory*: FREE-COL Laboratories.  
Address: Cotton Rd., P.O. Box 557, Meadville, PA 16335-0557, Contact: J. Richard Wohler, Phone: (814) 724-6242.
- (33) *Laboratory*: Galson Technical Services, Inc.  
Address: Suite 200, 5170 Campus Dr., Plymouth Meeting, PA 19462, Contact: Pamela Weaver, Phone: (215) 834-7288.
- (34) *Laboratory*: Gannett Fleming Environmental Laboratory.  
Address: 209 Senate Ave., Camp Hill, PA 17011, Contact: David W. Lane, Phone: (717) 763-7211.
- (35) *Laboratory*: Geo-Environmental Services, Inc., Maryland Division.  
Address: 444 North Frederick Ave., Suite L148, Gaithersburg, MD 20877-2432, Contact: John T. Razzolini, Phone: (301) 353-0338.
- (36) *Laboratory*: I-TEM, Ltd.  
Address: North Lake Commerce Center, 12850 Middlebrook Rd., P.O. Box 1060, Germantown, MD 20874, Contact: Randall A. Kimsey, Phone: (301) 353-0585.
- (37) *Laboratory*: Industrial Hygiene & Occup. Med. Lab., A Division of American Medical Lab., Inc.  
Address: 11091 Main St., Fairfax, VA 22030, Contact: Jan Turner/Fred Grunder, Phone: (703) 691-9100.
- (38) *Laboratory*: Interscience Research.  
Address: 2614 Wyoming Ave., Norfolk, VA 23513, Contact: Joseph H. Guth, Phone: (804) 853-8813.
- (39) *Laboratory*: JACA Corporation.  
Address: 550 Pinetown Rd., Fort Washington, PA 19034, Contact: Gary Lester, Phone: (215) 643-5466.
- (40) *Laboratory*: Lancaster Laboratories, Inc.  
Address: 2425 New Holland Ave., Lancaster, PA 17601, Contact: Barbara J. Weaver, Phone: (717) 656-2301.
- (41) *Laboratory*: Lehigh Valley Analytics, Inc.  
Address: 60 West Broad St., Bethlehem, PA 18018, Contact: Barbara J. Davies, Phone: (215) 866-4434.
- (42) *Laboratory*: MDS Laboratories.  
Address: 4418 Pottsville Pike, Reading, PA 19605, Contact: Fred Usbeck, Phone: (215) 921-9191.
- (43) *Laboratory*: Marine Chemist Service, Inc.  
Address: 11850 Tug Boat Ln., Newport News, VA 23606, Contact: Colleen Becker, Phone: (804) 873-0933.
- (44) *Laboratory*: Maryland Analytical Lab.  
Address: 3000 Chestnut Ave., Suite 324, Baltimore, MD 21211, Contact: Robert K. Simon, Phone: (301) 366-6444.
- (45) *Laboratory*: Med-Tox Associates, Inc.  
Address: 10366 Battleview Pkwy., Manassas, VA 22110, Contact: Tom Dagenhart, Phone: (703) 368-7880.
- (46) *Laboratory*: Microbac, Inc. Erie Testing Laboratory Division.  
Address: 2401 West 26th St., Erie, PA 16506, Contact: Mark R. Banister, Phone: (814) 833-4790.
- (47) *Laboratory*: Microlore, Inc.  
Address: 2201A 22nd St., Nitro, WV 25143, Contact: Jon C. Pauley, Phone: (304) 755-7118.
- (48) *Laboratory*: Mountaineer Testing Labs., Inc.  
Address: P.O. Box 767, 425 North Jefferson, Lewisburg, WV 24901, Contact: Rob Dillon, Phone: (304) 645-7114.
- (49) *Laboratory*: Occupational Medical Center Lab.  
Address: 490 L'Enfant Plaza E., SW, Suite 4300, P.O. Box 23580, Washington, DC 20026, Contact: Christopher Beza, Phone: (202) 488-7990.
- (50) *Laboratory*: Oneil M. Banks, Inc.  
Address: 336 South Main St., Bel Air, MD 21014, Contact: Michelle L. Evans, Phone: (301) 879-4676.
- (51) *Laboratory*: Paleozoic Hydrocarbon Industries.  
Address: 132 Oakwood Rd., Charleston, WV 25314, Contact: S. M. Spencer, Jr., Phone: (304) 345-7756.
- (52) *Laboratory*: Peach Laboratories.  
Address: P.O. Box 338, 5465 Route 8, Gibsonia, PA 15044, Contact: John M. Lang, Phone: (412) 443-9244.
- (53) *Laboratory*: Penn Environmental Health.  
Address: 301 South Lang Ave., Pittsburgh, PA 15208, Contact: Abbas Labbauf, Phone: (412) 241-5130.
- (54) *Laboratory*: Pennrun Corporation.  
Address: 150 William Pitt Way, Pittsburgh, PA 15238, Contact: Valerie McDonald, Phone: (412) 826-5304.
- (55) *Laboratory*: Professional Service Ind., Inc. Pittsburgh Testing Lab Division.  
Address: 850 Poplar St., Pittsburgh, PA 15220, Contact: Glenn Goss, Phone: (412) 922-4000.
- (56) *Laboratory*: RJ Lee Group.  
Address: 350 Hochberg Rd., Monroeville, PA 15146, Contact: William H. Powers, Phone: (412) 325-1776.
- (57) *Laboratory*: SSI Environmental Consultants.  
Address: 112 Kountz Rd., P.O. Box 159, Freeport, PA 16229, Contact: Marianne C. Saulsbury, Phone: (412) 295-2399.
- (58) *Laboratory*: Schneider Laboratories, Inc.  
Address: 1427 West Main St., Richmond, VA 23220-4629, Contact: Richard F. Schneider, Phone: (804) 353-6778.
- (59) *Laboratory*: Spotts, Stevens, & McCoy.  
Address: 345 North Wyomissing Blvd., Wyomissing, PA 19610, Contact: Spencer R. Watts, Phone: (215) 376-6581.
- (60) *Laboratory*: Structure Probe, Inc.  
Address: 535 East Gay St., West Chester, PA 19380, Contact: Kim Royer, Phone: (215) 436-5400.
- (61) *Laboratory*: Tracor Jitco, Inc. Asbestos Technology Center.



Address: 1601 Research Blvd., Rockville, MD 20850, Contact: Michael L. Edwards, Phone: (301) 984-2722.

(62) *Laboratory:* Versar, Inc.

Address: 6850 Versar Center, Springfield, VA 22151, Contact: Robert Maxfield, Phone: (703) 642-6755.

(63) *Laboratory:* Volz Environmental Services.

Address: 91 Pennsylvania Ave., Oakmont, PA 15139, Contact: George J. Skarupa, Phone: (412) 828-6666.

(64) *Laboratory:* Washington Analytical Laboratory, Inc.

Address: 14214 Coda Pl., Chantilly, VA 22021, Contact: R. Hugh Granger, Phone: (703) 631-6868.

(65) *Laboratory:* Wright Lab Services, Inc.

Address: 34 Dogwood Ln., Middletown, PA 17057, Contact: Francine Walker, Phone: (717) 944-5541.

#### Region IV—Atlanta, GA

*Regional Asbestos Coordinator:* Liz Wilde, EPA Region IV, 345 Courtland St., NE, (P&TSB), Atlanta, GA 30365. (404) 347-5014, (FTS) 257-5014.

(1) *Laboratory:* ATEC Associates, Inc. Address: 4845 Rosselle St., Jacksonville, FL 32205, Contact: Benton E. Laughlin, Phone: (904) 387-6404.

(2) *Laboratory:* ATEC Associates, Inc. Address: 2990 Northwest 40th St., Miami, FL 33142, Contact: Michael H. Straube, Phone: (305) 633-2700.

(3) *Laboratory:* ATEC Associates, Inc., Environmental Services Division.

Address: 1300 Williams Dr., Marietta, GA 30066-6299, Contact: Dwayne Cheatom, Phone: (404) 427-9456.

(4) *Laboratory:* ATEC Environmental Consultants.

Address: 100 Eyster Blvd., Rockledge, FL 32955, Contact: Harry L. Capadano, Jr., Phone: (407) 639-9069.

(5) *Laboratory:* Advanced Industrial Hygiene Services, Inc.

Address: 2131 Southwest 2nd Ave., Miami, FL 33129, Contact: Bruce Marchette, Phone: (305) 854-7554.

(6) *Laboratory:* American Microscopy Laboratory.

Address: 29 Heritage Hills, Tuscaloosa, AL 35406, Contact: M. A. Beg, Phone: (205) 345-2555.

(7) *Laboratory:* Analytical Management, Inc.

Address: P.O. Box 11279, Lexington, KY 40574, Contact: David H. McRae, Phone: (606) 231-8511.

(8) *Laboratory:* Applied Environmental Technology, Inc.

Address: P.O. Box 421, Marietta, GA 30061, Contact: James B. Glass, Phone: (404) 425-1115.

(9) *Laboratory:* Applied Environmental Testing Lab, Inc.

Address: 680 Thornton Way, Suite 202, Lithia Springs, GA 30057, Contact: Ali A. Hassani Pak, Phone: (404) 948-4919.

(10) *Laboratory:* Applied Technical Services.

Address: 1190 Atlanta Industrial Dr., Marietta, GA 30066, Contact: Laurel V. Waters, Phone: (404) 423-1400.

(11) *Laboratory:* Asbestos Analysis and Information Service.

Address: P.O. Box 837, Fair Oaks, NC 27524, Contact: Stephen H. Westbrook, Phone: (919) 894-7718.

(12) *Laboratory:* Azimuth, Inc.

Address: P.O. Box 71904, Charleston, SC 29415-1904, Contact: Charles B. Stoyke, Phone: (803) 553-9456.

(13) *Laboratory:* BCM Converse, Inc.

Address: 108 St. Anthony St., P.O. Box 1784, Mobile, AL 36633, Contact: Michael Findley, Phone: (205) 433-3981.

(14) *Laboratory:* Bonner Analytical Testing Co.

Address: Rt. 13, Box 85, Hattiesburg, MS 39401, Contact: Michael Bonner, Phone: (601) 264-2854.

(15) *Laboratory:* CRU, Inc.

Address: P.O. Box 24467, Louisville, KY 40224, Contact: Donna M. Ringo, Phone: (502) 426-8860.

(16) *Laboratory:* Carolina Environmental.

Address: P.O. Box 37549, Raleigh, NC 27627, Contact: John D. Koenigs, Phone: (919) 859-0477.

(17) *Laboratory:* Cavin Analytical Consultants.

Address: P.O. Box 454, Snellville, GA 30278, Contact: Donald K. Cavin, Phone: (404) 979-8838.

(18) *Laboratory:* Certified Engineering and Testing Co., Inc.

Address: 2600 Poplar Ave., Memphis, TN 38112, Contact: Amy Ginsberg, Phone: (901) 458-6860.

(19) *Laboratory:* Chem-Ray.

Address: P.O. Box 821, Florence, AL 35631, Contact: James D. Ray, Phone: (205) 776-4345.

(20) *Laboratory:* Chemalytics.

Address: 300 Doctors Bldg., 33 East Seventh St., Covington, KY 41011, Contact: Kenneth P. Reed, Phone: (606) 431-6224.

(21) *Laboratory:* Cigna Loss Control Services Environmental Health Laboratory.

Address: 1021 Georgia Ave., 3rd Fl., Macon, GA 31201-6709, Contact:

Harriotte A. Hurley, Phone: (912) 745-4702.

(22) *Laboratory:* Clayton Environmental Consultants, Inc.

Address: 2141 Kingston Ct., SE, Suite 116, Marietta, GA 30067, Contact: Alice C. Farrar, Phone: (404) 952-3064.

(23) *Laboratory:* Davis & Floyd, Inc.

Address: Post Office Drawer 428, Greenwood, SC 29648, Contact: William J. Day, Phone: (803) 229-5211.

(24) *Laboratory:* EEC, Inc.

Address: P.O. Box 11847, Columbia, SC 29211, Contact: Daniel A. Smith, Phone: (803) 256-7846.

(25) *Laboratory:* EEC, Inc.

Address: 3006-F Industrial Dr., Raleigh, NC 27609, Contact: Mike Scrimanker, Phone: (919) 833-2012.

(26) *Laboratory:* EMSL, Inc.

Address: 1800 Peachtree St., NW, Suite 305, Atlanta, GA 30309, Contact: John Scarano, Phone: (609) 858-4800.

(27) *Laboratory:* Ecosafe, Inc.

Address: 1820 Chapel Hill Rd., Durham, NC 27707, Contact: Steven L. Goode, Phone: (919) 493-2612.

(28) *Laboratory:* EnviroSciences, Inc.

Address: Montgomery Bldg., Suite 705, P.O. Box 5804, Spartanburg, SC 29304, Contact: Andrew G. Schauder, Phone: (803) 585-4900.

(29) *Laboratory:* Environmental Analytical Labs.

Address: Cobb Corporate Center/300, 350 Franklin Rd., Marietta, GA 30067, Contact: Jeremy A. Armstrong, Phone: (404) 425-9901.

(30) *Laboratory:* Environmental Materials Consultants.

Address: P.O. Box 100161, 2217 10th Ct. S., Suite 200, Birmingham, AL 35210, Contact: William E. Hogg, Phone: (205) 933-0400.

(31) *Laboratory:* Environmental Protection Systems, Inc.

Address: P.O. Box 20382, Jackson, MS 39209, Contact: Corbin McGriff, Phone: (601) 922-8242.

(32) *Laboratory:* Environmental Protection Systems, Inc.

Address: 7215 Pine Forest Rd., Pensacola, FL 32506, Contact: James R. Burkhalter, Phone: (904) 944-0301.

(33) *Laboratory:* Environmental Science and Engineering, Inc.

Address: P.O. Box 1703, Gainesville, FL 32602-1703, Contact: John J. Mousa, Phone: (904) 332-3318.

(34) *Laboratory:* Envirofact.

Address: 4790 Northwest 157th St., Hialeah, Miami, FL 33142, Contact:



- Greta Mackenzie, Phone: (305) 620-1700.
- (35) *Laboratory*: Enviropact Services, Inc.  
Address: 5180 113th Ave., N., Clearwater, FL 34620-4835, Contact: Michael T. Osinski, Phone: (813) 577-9663.
- (36) *Laboratory*: Envirosiences, Inc.  
Address: 3509 Haworth Dr., Suite 310, Raleigh, NC 27609-7223, Contact: R.C. Jordan, Phone: (919) 782-6527.
- (37) *Laboratory*: Evans Environmental & Geological Science and Management, Inc.  
Address: P.O. Box 452900, Miami, FL 33245-2900, Contact: Charles C. Evans, Phone: (305) 856-7458.
- (38) *Laboratory*: GSC Environmental Laboratories, Inc.  
Address: 1824 Bi Wylds Rd., Augusta, GA 30909, Contact: William J. Horning, Phone: (404) 737-0185.
- (39) *Laboratory*: Geo-Environmental Services, Inc.  
Address: 141 West Wieuca Rd., Suite 200A, Atlanta, GA 30342, Contact: Susan Harper, Phone: (404) 257-9303.
- (40) *Laboratory*: Harmon Engineering Associates, Inc.  
Address: 1550 Pumphrey Ave., Auburn, AL 36830-4399, Contact: Roger Thompson, Phone: (205) 821-9250.
- (41) *Laboratory*: Health & Hygiene, Inc.  
Address: 4605-E Dundas Dr., Greensboro, NC 27407, Contact: Sharon P. Lonon, Phone: (919) 854-2303.
- (42) *Laboratory*: KNL Laboratory Services.  
Address: P.O. Box 1833, Tampa, FL 33601, Contact: Garrett J. McGibbon, Phone: (813) 229-2879.
- (43) *Laboratory*: Larron Laboratory.  
Address: 711 Broadway, Mayfield, KY 42066, Contact: Daniel Roth, Phone: (502) 247-8982.
- (44) *Laboratory*: Laseter and Associates, Inc.  
Address: P.O. Box 176, Collierville, TN 38107, Contact: Kenneth Laseter, Phone: (901) 853-0400.
- (45) *Laboratory*: Law Associates, Inc.  
Address: 1386 Mayson St., Atlanta, GA 30324, Contact: Greg Lewars, Phone: (404) 892-3200.
- (46) *Laboratory*: Law Engineering.  
Address: 4919 West Laurel St., P.O. Box 24183, Tampa, FL 33623, Contact: Susan K. Gossett, Phone: (813) 879-0750.
- (47) *Laboratory*: Law Engineering Testing Co.  
Address: 501 Minuet Ln., P.O. Box 11297, Charlotte, NC 28220, Contact: R. Glenn Craig, Phone: (704) 523-2022.
- (48) *Laboratory*: Law Engineering, Inc.  
Address: 3608 7th Ct., S., P.O. Box 10244, Birmingham, AL 35202, Contact: R. Michael Hamilton, Phone: (205) 252-9901.
- (49) *Laboratory*: McCrone Environmental Services, Inc.  
Address: 1412 Oadbrook Dr., Suite 100, Norcross, GA 30093, Contact: Harriette A. Hurley, Phone: (404) 381-0855.
- (50) *Laboratory*: Metro Services Laboratory Asbestos Control Division.  
Address: 6309 Fern Valley Pass, Louisville, KY 40228, Contact: J. Daniel Cooper, Phone: (502) 964-0865.
- (51) *Laboratory*: Micro-Methods.  
Address: 5106 Telephone Rd., Pascagoula, MS 39567, Contact: Thomas J. Wilson, Phone: (601) 769-7774.
- (52) *Laboratory*: Northrop Services, Inc.  
Address: P.O. Box 12313, RTP, NC 27709-2313, Contact: James A. Jahnke, Phone: (919) 549-0611.
- (53) *Laboratory*: Pace Laboratories, Inc.  
Address: 5460 Beaumont Center Blvd., Tampa, FL 33634, Contact: Timothy M. Odell, Phone: (813) 884-8268.
- (54) *Laboratory*: Pacific Environmental Services, Inc.  
Address: 1905 Chapel Hill Rd., Durham, NC 27707, Contact: Gary Tencer, Phone: (919) 493-3536.
- (55) *Laboratory*: Pensacola P.O.C., Inc.  
Address: 406 Greve Road, Pensacola, FL 32507, Contact: Barbara Svinglin, Phone: (904) 456-4406.
- (56) *Laboratory*: Phoenix Environmental Labs, Division of P.D.R. Engineers, Inc.  
Address: 2000 Lindell Ave., Nashville, TN 37203, Contact: A.K. Upadhyaya, Phone: (615) 298-2065.
- (57) *Laboratory*: Pioneer Laboratory, Inc.  
Address: 11 East Olive Rd., Pensacola, FL 32514, Contact: Peggy Gaskill, Phone: (904) 474-1001.
- (58) *Laboratory*: Professional Contract Services, Inc.  
Address: P.O. Box 2605, Opelika, AL 36803-2605, Contact: Marsha Schnurrenberger, Phone: (205) 749-2636.
- (59) *Laboratory*: Professional Service Ind., Inc., PTL/Arribas Division.  
Address: 3901 Northwest 29th Ave., Miami, FL 33142, Contact: Mary E. Hamel, Phone: (305) 633-7555.
- (60) *Laboratory*: Quality Analytical Services.  
Address: 4701 Joseph Michael Ct., Raleigh, NC 27606, Contact: John Sheats, Phone: (919) 851-2891.
- (61) *Laboratory*: R3 Enterprises.  
Address: 630 Edgewater Club Rd., Wilmington, NC 28405, Contact: Richard Spivey, Phone: (919) 686-0242.
- (62) *Laboratory*: Roberts Environmental Services, MAKO Office Complex.  
Address: Highway 24 East, Swansboro, NC 28584, Contact: H. Dan Roberts, Phone: (919) 393-6167.
- (63) *Laboratory*: S&ME Industrial Technologies, Inc.  
Address: 3300 Marjan Dr., Atlanta, GA 30340, Contact: Charles H. Zollner, Phone: (404) 451-5772.
- (64) *Laboratory*: S&ME Industrial Technologies, Inc.  
Address: 840 Low Country Blvd., Mt. Pleasant, SC 29464, Contact: Nina G. Marshtein, Phone: (803) 884-0005.
- (65) *Laboratory*: S&ME Industrial Technologies, Inc.  
Address: 5909 Breckenridge Pkwy., Suite B, Tampa, FL 33610, Contact: John J. Henderson, Phone: (813) 623-2438.
- (66) *Laboratory*: Schweiger and Associates.  
Address: 1150 Terrell Mill Rd., 4M, Marietta, GA 30067, Contact: Patrick J. Schweiger, Phone: (404) 984-2692.
- (67) *Laboratory*: Southeastern Marine Chemists, Inc., Southeastern Chemists' Laboratories.  
Address: P.O. Box 8917, Jacksonville, FL 32239, Contact: Joseph W. Newton, Phone: (904) 725-2040.
- (68) *Laboratory*: Southern Earth Sciences, Inc.  
Address: 762 Downtowner Loop W., Mobile, AL 36609, Contact: Charles Smilie, Phone: (205) 344-7711.
- (69) *Laboratory*: Specialized Assays.  
Address: 210 12th Ave., S., P.O. Box 25110, Nashville, TN 37202, Contact: Kay Williams-Smith, Phone: (615) 255-5786.
- (70) *Laboratory*: TEI Environmental, Inc.  
Address: 308A Pomona Dr., Greensboro, NC 27407, Contact: James Buchanan, Phone: (919) 852-0318.
- (71) *Laboratory*: TTL, Inc.  
Address: 3516 Greensboro Ave., P.O. Box 1094, Tuscaloosa, AL 35403, Contact: Jack E. Davis, Phone: (205) 345-0816.
- (72) *Laboratory*: Testwell Craig Laboratories of Florida, Inc.



Address: 7104 Northwest 51st St., Miami, FL 33166, Contact: Robert Schuler, Phone: (305) 593-0561.

(73) *Laboratory*: Testwell Craig Laboratories of Tampa, Inc.

Address: 11553 U.S. Hwy. 41, S., Gibsonton, FL 33534-9720, Contact: Michael Williamson, Phone: (813) 677-0242.

(74) *Laboratory*: Thornton Laboratories, Inc.

Address: 1145 East Cass St., Tampa, FL 33602, Contact: Laure Taylor, Phone: (813) 223-9702.

(75) *Laboratory*: University of Alabama Toxic Substances Control Lab.

Address: P.O. Box 2967, Tuscaloosa, AL 35486, Contact: W. Paul Harrison, Phone: (205) 348-4666.

(76) *Laboratory*: Weston/ATC, Inc. Analytical Services.

Address: 1635 Pumphrey Ave., Auburn, AL 36830-4303, Contact: Leonard H. Nelms, Phone: (205) 826-6100.

#### REGION V—Chicago, IL

*Regional Asbestos Coordinator*: Anthony Restaino, EPA Region V, 230 S. Dearborn St., (T-SPTB-7), Chicago, IL 60604. (312) 886-8003, (FTS) 886-8003.

(1) *Laboratory*: ALEX.

Address: 485 Frontage Rd., Burr Ridge, IL 60521, Contact: Erol Roth, Phone: (312) 789-6080.

(2) *Laboratory*: ATEC Associates, Inc.

Address: 1501 East Main St., Griffith, IN 46319, Contact: Roger S. Berkowitz, Phone: (219) 924-8690.

(3) *Laboratory*: ATEC Associates, Inc.

Address: 5150 East 65th St., Indianapolis, IN 46220-4871, Contact: Richard A. Gehlbach, Phone: (317) 849-4990.

(4) *Laboratory*: Affiliated Environmental Services, Inc.

Address: 3606 Venice Rd., Sandusky, OH 44870, Contact: Don Dauch, Phone: (419) 627-1974.

(5) *Laboratory*: Air Quality Testing.

Address: 236 South Washington St., Naperville, IL 60540, Contact: J.D. Stubblefield, Phone: (312) 369-8987.

(6) *Laboratory*: AirTech Associates, Inc.

Address: 4100 Madison, Lower Level, Suite 4, Hillside, IL 60162, Contact: Mark Watka or Anne Czechorski, Phone: (312) 547-8117.

(7) *Laboratory*: Aires Environmental Services.

Address: 1550 Hubbard, Batavia, IL 60510, Contact: Cynthia Darling, Phone: (312) 879-3006.

(8) *Laboratory*: Alderink and Associates, Inc.

Address: 3221 3 Mile Rd., Grand Rapids, MI 49504, Contact: Carol J. Paxhia, Phone: (616) 791-0730.

(9) *Laboratory*: Alloway Testing.

Address: 1325 North Cole St., Lima, OH 45801-3415, Contact: John R. Hoffman, Phone: (419) 223-1362.

(10) *Laboratory*: American Analytical Laboratories.

Address: 100 Lincoln St., Akron, OH 44308, Contact: Richard E. Moore, Phone: (216) 535-1300.

(11) *Laboratory*: Anasbestics Co.

Address: 7206 West 90th Pl., Bridgeview, IL 60455, Contact: Gary Kentgen, Phone: (312) 598-2921.

(12) *Laboratory*: Applied Environmental Sciences, Inc.

Address: 511 Eleventh Ave., S., Box 220, Minneapolis, MN 55415, Contact: Patrick DiBartolomeo, Phone: (612) 339-5559.

(13) *Laboratory*: Asbestos Compliance Technology, Inc.

Address: 4015 Cherry St., Cincinnati, OH 45223, Contact: Tina Schmalz, Phone: (513) 542-4040.

(14) *Laboratory*: Asbestos Compliance Technology, Inc.

Address: 5356 Hillside Ave., Indianapolis, IN 46220, Contact: Virgil J. Konopinski, Phone: (317) 257-5096.

(15) *Laboratory*: Asbestos Control Methods, Inc.

Address: 209 South Main St., Mount Prospect, IL 60056, Contact: Nelson W. Gray, Phone: (312) 398-0078.

(16) *Laboratory*: Asbestos Management, Inc.

Address: 36700 South Huron St., Suite 104, New Boston, MI 48164, Contact: D. Rex Bleeker, Phone: (313) 961-6135.

(17) *Laboratory*: BCA Laboratory.

Address: 1102 South Main, Bloomington, IL 61701, Contact: Kurt Benckendorf, Phone: (309) 828-7772.

(18) *Laboratory*: BDN Industrial Hygiene Consultants.

Address: 8105 Valleywood Ln., Portage, MI 49002, Contact: Scott McFarland, Phone: (616) 329-1237.

(19) *Laboratory*: Badger Labs. & Eng. Co., Inc.

Address: 1110 South Oneida St., Appleton, WI 54915, Contact: Stephen C. Taylor, Phone: (414) 739-9213.

(20) *Laboratory*: Beling Consultants, Inc.

Address: 1001-16th St., Moline, IL 61265, Contact: Jeffrey A. Wasson, Phone: (309) 757-9800.

(21) *Laboratory*: Bowser-Morner Testing Laboratories, Inc.

Address: 420 Davis Ave., P.O. Box 51, Dayton, OH 45403, Contact: Mark A. Bingham, Phone: (513) 253-8805.

(22) *Laboratory*: Braun Environmental Laboratories.

Address: 6800 South Country Rd. 18, P.O. Box 35108, Minneapolis, MN 55435-0108, Contact: Lisa A. Fournelle-Smestad, Phone: (612) 941-5600.

(23) *Laboratory*: Brookfield Academy Dept. of Math & Science.

Address: 3460 North Brookfield Rd., Brookfield, WI 53005, Contact: H.S. MacDonald, Phone: (414) 781-6410.

(24) *Laboratory*: Bruce Menkel & Associates, Inc.

Address: 235 Industrial Dr., P.O. Box 159, Franklin, OH 45005, Contact: Bruce Menkel, Phone: (513) 746-9300.

(25) *Laboratory*: C.G. Technologies, Inc.

Address: 921 Mohican Pass, Madison, WI 53711, Contact: Carol Gannon, Phone: (608) 271-2292.

(26) *Laboratory*: CAE Asbestos.

Address: 207 North Woodwork Ln., Palatine, IL 60067, Contact: Paul A. Evansky, Jr., Phone: (312) 991-3300.

(27) *Laboratory*: Carnow, Conibear and Associates, Ltd.

Address: 333 West Wacker Dr., 14th Fl., Chicago, IL 60606, Contact: Steve Wolf, Phone: (312) 782-4486.

(28) *Laboratory*: Chem-Bio Corporation.

Address: 140 East Ryan Rd., Oak Creek, WI 53154, Contact: Robert F. Lipo, Phone: (414) 764-7870.

(29) *Laboratory*: Clayton Environmental Consultants, Inc.

Address: 22345 Roethel Dr., Novi, MI 48050, Contact: Bob Lieckfield, Phone: (313) 344-1770.

(30) *Laboratory*: Cole Associates, Inc.

Address: 2211 East Jefferson Blvd., South Bend, IN 46615, Contact: Lawrence W. Grauvogel, Phone: (219) 236-4400.

(31) *Laboratory*: Daily Analytical Laboratories.

Address: 1621 West Candletree Dr., Peoria, IL 61614, Contact: Susan J. Naschert, Phone: (309) 692-5252.

(32) *Laboratory*: Daniel J. Hartwig Associates, Inc., Director, Industrial Hygiene Services.

Address: P.O. Box 31, Oregon, WI 53575, Contact: David T. Killough, Phone: (608) 835-5781.

(33) *Laboratory*: DataChem.

Address: 4388 Glendale-Milford Rd., Cincinnati, OH 45242, Contact:



- Charles L. Geraci, Phone: (513) 733-5336.  
 (34) *Laboratory*: DeLisle Consulting & Laboratories, Inc.  
 Address: 6946 East N. Ave., Kalamazoo, MI 49001, Contact: Brad Shook, Phone: (616) 343-9698.  
 (35) *Laboratory*: DeYor Laboratories, Inc.  
 Address: P.O. Box 3949, 7655 Market St., Suite 2500, Youngstown, OH 44512, Contact: Joseph K. Samuels, Phone: (216) 758-5788.  
 (36) *Laboratory*: EIS Environmental Engineers, Inc.  
 Address: 1701 North Ironwood Dr., South Bend, IN 46635, Contact: H. Stephen Nye, Phone: (219) 277-5715.  
 (37) *Laboratory*: ERT Testing Services, Inc.  
 Address: D.O.H. Professional Bldg., 211 Glendale, Suite 425, Highland Park, MI 48203, Contact: Rose M. Grier, Phone: (313) 865-0600.  
 (38) *Laboratory*: Electro Analytical, Inc.  
 Address: 7118 Industrial Park Blvd., Mentor, OH 44060-5377, Contact: Mitchell E. Fadem, Phone: (216) 951-3514.  
 (39) *Laboratory*: Environmental Analytical Labs.  
 Address: 314 South State Ave., Indianapolis, IN 46201, Contact: David W. Hogue, Phone: (317) 269-3618.  
 (40) *Laboratory*: Environmental Consultants, Inc.  
 Address: 1916 North 12th St., Toledo, OH 43624, Contact: Donald Dick, Phone: (419) 241-7127.  
 (41) *Laboratory*: Environmental Enterprises, Inc.  
 Address: 10147 Springfield Pike, Cincinnati, OH 45215, Contact: Wayne L. Collier, Phone: (513) 772-2818.  
 (42) *Laboratory*: Environmental Evaluation & Laboratory Services, Inc.  
 Address: 225 Parsons St., P.O. Box 1665, Kalamazoo, MI 49005, Contact: A. Clark Kahn, III, Phone: (616) 388-8099.  
 (43) *Laboratory*: Environmental Research Group, Inc.  
 Address: 7314 West 90th St., Bridgeview, IL 60455, Contact: Frank P. DeFranza, Phone: (312) 430-1112.  
 (44) *Laboratory*: Environmental Safety Systems, Inc.  
 Address: 17960 Englewood Dr., Middleburg Heights, OH 44130, Contact: Scott F. Linville, Phone: (216) 826-4220.  
 (45) *Laboratory*: Environmental Services Inc.  
 Address: 1403 Sunset Ter., Western Springs, IL 60558, Contact: Nicholas Malone, Phone: (312) 246-2040.  
 (46) *Laboratory*: Fay Goldblatt Laboratories, Inc.  
 Address: 2111 Parkview Ct., Wilmette, IL 60091, Contact: Fay Goldblatt, Phone: (800) 356-0289.  
 (47) *Laboratory*: Fibertec, Inc.  
 Address: 808 West Lake Lansing Rd., Suite 206, East Lansing, MI 48823, Contact: Matthew H. Frisch, Phone: (517) 351-0345.  
 (48) *Laboratory*: Gabriel Laboratories, Inc.  
 Address: 1421 North Elston Ave., Chicago, IL 60622, Contact: Chris Rollins, Phone: (312) 486-2123.  
 (49) *Laboratory*: Hazardous Materials Management, Inc.  
 Address: 5821 Femrite Dr., Suite G, Room 101, Madison, WI 53704, Contact: Jeffrey S. Stutsman, Phone: (608) 221-4027.  
 (50) *Laboratory*: Howard Laboratories, Inc.  
 Address: 3601 South Dixie Dr., Dayton, OH 45439, Contact: Jackie Webster, Phone: (513) 294-6856.  
 (51) *Laboratory*: IIT Research Institute.  
 Address: 10 West 35th St., Chicago, IL 60616, Contact: Jean Graf, Phone: (312) 567-4286.  
 (52) *Laboratory*: Industrial Environmental Consultants.  
 Address: 1350 East Lake Lansing Rd., East Lansing, MI 48823, Contact: Jeanine Samuelson, Phone: (517) 351-4002.  
 (53) *Laboratory*: Institute for Environmental Assessment.  
 Address: 2829 Verndale Ave., Anoka, MN 55303, Contact: Richard T. Cox, Phone: (612) 427-5310.  
 (54) *Laboratory*: Kemron Environmental Services.  
 Address: 32740 North Western Hwy., Farmington Hills, MI 48018, Contact: Charles O'Bryan, Phone: (313) 626-2426.  
 (55) *Laboratory*: Lyle Laboratories.  
 Address: 1327 King Ave., Columbus, OH 43212, Contact: Tom Eggers, Phone: (614) 488-1022.  
 (56) *Laboratory*: Materials Testing Consultants, Inc.  
 Address: 693 Plymouth NE, Grand Rapids, MI 49505, Contact: Judson N. Sorensen, Phone: (616) 456-5469.  
 (57) *Laboratory*: Mathes Asbestos Services, Inc.  
 Address: P.O. Box 330, 210 West Sand Bank Rd., Columbia, IL 62236-0330, Contact: David H. Ward, Phone: (618) 281-7173.  
 (58) *Laboratory*: Micro Air, Inc.  
 Address: 7132 Lakeview Pkwy, West Dr., Indianapolis, IN 46268, Contact: Harold Eitzen, Phone: (317) 293-1533.  
 (59) *Laboratory*: Micro-Fiber Laboratories, Inc.  
 Address: 635 Landwehr Rd., Northbrook, IL 60062, Contact: Phillip G. Pekron, Phone: (312) 498-4127.  
 (60) *Laboratory*: MicroView Consulting.  
 Address: 416 East Catawba Ave., Akron, OH 44301, Contact: Frank S. Karl, Phone: (216) 773-8330.  
 (61) *Laboratory*: Microbac Laboratories, Inc., Seaway Industrial Laboratory Subsidiary.  
 Address: 542-544 Conkey St., Hammond, IN 46324, Contact: Karen A. Erny, Phone: (219) 932-1770.  
 (62) *Laboratory*: Monarch Analytical Laboratories, Inc.  
 Address: P.O. Box 2990, Toledo, OH 43606, Contact: Ronald J. Plenzler, Phone: (419) 535-1780.  
 (63) *Laboratory*: NATLSCO K-2.  
 Address: RTE 22 & Kemper Dr., Long Grove, IL 60049, Contact: Joan Wronski, Phone: (312) 540-2488.  
 (64) *Laboratory*: National Petrographic Services.  
 Address: 4484 Willowbrook Rd., Columbus, OH 43220, Contact: Bonnie Awan, Phone: (614) 459-7360.  
 (65) *Laboratory*: Northern Indiana Public Services Company.  
 Address: 501 Bailly Station Rd., Performance Services—Central Lab, Chesterton, IN 46304, Contact: Steven L. Barnes, Phone: (219) 787-7205.  
 (66) *Laboratory*: Northland Environmental Services, Inc.  
 Address: P.O. Box 909, Stevens Point, WI 54481, Contact: Robert C. Voborsky, Phone: (715) 341-9699.  
 (67) *Laboratory*: Nova Environmental Services, Inc.  
 Address: 1107 Hazeltine Blvd., Suite 420, Hazeltine Gates, Chaska, MN 55318, Contact: Steven B. Cummings, Phone: (612) 448-9393.  
 (68) *Laboratory*: Ohio Department of Health, Division of Laboratories.  
 Address: 1571 Perry St., Box 2568, Columbus, OH 43266-0068, Contact: Elizabeth Clark, Phone: (614) 421-1078.  
 (69) *Laboratory*: PEI Associates, Inc.  
 Address: 11499 Chester Rd., Cincinnati, OH 45246, Contact: Craig Caldwell, Phone: (513) 782-4700.



(70) *Laboratory*: Pace Laboratories, Inc.  
Address: 1710 Douglas Dr., N., Minneapolis, MN 55422, Contact: Tom L. Haverson, Phone: (612) 544-5543.

(71) *Laboratory*: Particle Data Laboratories, Ltd.  
Address: 115 Hahn St., Elmhurst, IL 60126, Contact: Ron Sturm, Phone: (312) 832-5658.

(72) *Laboratory*: Pollution Control Science, Inc.  
Address: 6015 Manning Rd., Miamisburg, OH 45342, Contact: Sheila J. Gaston, Phone: (513) 866-5908.

(73) *Laboratory*: Pro-Ac Asbestos Services  
Address: 5736 Tri-County Hwy., Sardinia, OH 45171, Contact: Fred Schmalz, Phone: (513) 542-8708.

(74) *Laboratory*: Randolph & Associates, Inc.  
Address: 8901 North Industrial Rd., Peoria, IL 61615, Contact: Kirk Sweetland, Phone: (309) 692-4422.

(75) *Laboratory*: Reed City Hospital  
Address: 7665 Patterson Rd., P.O. Box 75, Reed City, MI 49677, Contact: James T. Reardon, Phone: (616) 832-3271.

(76) *Laboratory*: Ricerca, Inc.  
Address: 7528 Auburn Rd., P.O. Box 1000, Painesville, OH 44077-1000, Contact: William O. Butler, Phone: (216) 357-3300.

(77) *Laboratory*: S.E.A., Inc.  
Address: 7349 Worthington-Galena Rd., Columbus, OH 43085, Contact: Jami J. St. Clair, Phone: (614) 888-4160.

(78) *Laboratory*: S.H. Gelles Associates  
Address: 2836 Fisher Rd., Columbus, OH 43204, Contact: S.H. Gelles, Phone: (614) 276-2957.

(79) *Laboratory*: Sea Earth & Air Environmental Consultants, Inc.  
Address: 4651 North Paulina, Chicago, IL 60640, Contact: Barbera Carr, Phone: (312) 878-8337.

(80) *Laboratory*: Shaw Environmental Analytical Laboratory  
Address: P.O. Box 608559, Chicago, IL 60660, Contact: Michael Shaw, Phone: (312) 973-4447.

(81) *Laboratory*: Sierra Analytical & Consulting Services, Inc.  
Address: 218 8th St., Ann Arbor, MI 48103, Contact: Dave Nelson, Phone: (313) 662-1155.

(82) *Laboratory*: Stat Analysis Corporation  
Address: 2201 West Campbell Park Dr., Chicago, IL 60612-3501, Contact: David E. Schwartz, Phone: (312) 733-0551.

(83) *Laboratory*: Stilson Laboratories, Inc.  
Address: 170 North High St., Columbus, OH 43215, Contact: W. Martin Bell, Phone: (614) 228-4385.

(84) *Laboratory*: Suburban Environmental Consultants, Ltd.  
Address: 17121 Whitman, Hazelcrest, IL 60429, Contact: Henry G. Gooday, Jr., Phone: (312) 335-1808.

(85) *Laboratory*: TEM, Inc.  
Address: 110 West Park Ave., Suite 210, Elmhurst, IL 60126, Contact: James Tuinenga, Phone: (312) 530-2390.

(86) *Laboratory*: Testing Engineers and Consultants, Inc.  
Address: P.O. Box 249, 1333 Rochester Rd., Troy, MI 48069, Contact: Scott Chandler, Phone: (313) 588-6200.

(87) *Laboratory*: Tremco.  
Address: 10701 Shaker Blvd., Cleveland, OH 44104, Contact: Charles J. Kaloczi, Phone: (216) 292-5000.

(88) *Laboratory*: Tri-State Laboratories, Dept. of Environmental Services.  
Address: 19 East Front St., Youngstown, OH 44503, Contact: Bari Lateef, Phone: (216) 746-8800.

(89) *Laboratory*: Twin City Testing Corporation  
Address: 662 Cromwell Ave., St. Paul, MN 55114, Contact: Wallace J. Nosek, Jr., Phone: (612) 645-3601.

(90) *Laboratory*: Wadsworth/Alert Laboratories  
Address: P.O. Box 31454, Cleveland, OH 44131, Contact: Douglas R. Allenson, Phone: (216) 642-9151.

(91) *Laboratory*: Wausau Insurance Companies, Environmental Health Laboratory  
Address: 2000 Westwood Dr., Wausau, WI 54401, Contact: Thomas Stavros, Phone: (715) 842-6810.

(92) *Laboratory*: Wisconsin Occupational Health Labs.  
Address: 979 Jonathon Dr., Madison, WI 53711, Contact: Richard Zimmerman, Phone: (608) 263-8807.

(93) *Laboratory*: Zimmerlin Consulting Group.  
Address: 3972 Brown Park Dr., Suite D, P.O. Box 357, Hilliard, OH 43026-0357, Contact: William Zimmerlin, Phone: (513) 236-7608.

(94) *Laboratory*: Zimmerlin Consulting Group.  
Address: 3420 East 96th St., Suite A, Indianapolis, IN 46240, Contact: Daniel J. Smith, Phone: (317) 574-0848.

#### Region VI—Dallas, TX

*Regional Asbestos Coordinator*: John West, 6t-Pt, EPA, Region VI, 1445 Ross

Avenue, Dallas, TX 75202-2733. (214) 655-7244, (FTS) 255-7244.

(1) *Laboratory*: A & B Environmental Services, Inc.

Address: 15371 Woodforest Blvd., Channelview, TX 77530, Contact: Ram Ramakrishnan, Phone: (713) 457-6608.

(2) *Laboratory*: ACI & Associates.

Address: 2100 Road to Six Flags East, Arlington, TX 76011, Contact: Michael J. Lee, Phone: (817) 265-7535.

(3) *Laboratory*: ATEC Environmental Services.

Address: 11310 Newkirk St., Dallas, TX 75229-3382, Contact: Stephen D. Brandt, Phone: (214) 243-8931.

(4) *Laboratory*: Acadiana Research Laboratories, University of Southwestern Louisiana.

Address: P.O. Box 44210, Lafayette, LA 70504, Contact: Davy L. Bernard, Phone: (318) 231-6184.

(5) *Laboratory*: Accredited Industrial Hygienists.

Address: P.O. Box 6152, Pasadena, TX 77506, Contact: J. P. Forsman, Phone: (713) 477-8101.

(6) *Laboratory*: Aegis Associates, Inc.

Address: 44 East Ave., Suite 100/Suite 202, Austin, TX 78701-4334, Contact: Dianne Herrera, Phone: (512) 474-8789.

(7) *Laboratory*: Allied Environmental Services, Inc.

Address: 16023 I-10 East, #9, Channelview, TX 77530, Contact: Subba V. Gogineni, Phone: (713) 452-5697.

(8) *Laboratory*: American Analytical, Inc.

Address: 218 Market St., Baird, TX 79504, Contact: Bob Dye, Phone: (915) 854-1264.

(9) *Laboratory*: Analytical Labs.

Address: 1010 Los Lomas NE, Albuquerque, NM 87106, Contact: Bob Dye, Phone: (505) 242-3845.

(10) *Laboratory*: Arkansas Department of Health.

Address: 4815 West Markham St., Little Rock, AR 72205, Contact: Stan Faulk, Phone: (501) 661-2389.

(11) *Laboratory*: Armstrong Forensic Laboratory, Inc.

Address: 330 Loch'n Green Trail, Arlington, TX 76012, Contact: John M. Corn, Phone: (817) 275-2691.

(12) *Laboratory*: Assaigai Analytical Laboratories.

Address: 7300 Jefferson, NE, Albuquerque, NM 87109, Contact: Dean Dupree, Phone: (505) 345-8964.



(13) *Laboratory:* Building Environmental Systems, Inc.

Address: 3501 North MacArthur, Suite 400B, Irving, TX 75062, Contact: Amy L. Smith, Phone: (214) 257-0787.

(14) *Laboratory:* Central Analytical Laboratories, Inc.

Address: 2600 Marietta Ave., Kenner, LA 70062, Contact: David R. Lasater, Phone: (504) 469-3511.

(15) *Laboratory:* Chemtex Environmental Laboratory.

Address: 1747 7th Ave., Port Arthur, TX 77642, Contact: C.N. Reddy, Phone: (409) 983-4575.

(16) *Laboratory:* Continental Technical Services, Environmental Health Division.

Address: 9742 Skillman, Dallas, TX 75243, Contact: Carolyn Vercell, Phone: (214) 343-2025.

(17) *Laboratory:* Diversified Environmental Technologies Incorporated.

Address: 132 West Main, Norman, OK 73069, Contact: Dan Tutt, Phone: (405) 360-7929.

(18) *Laboratory:* EEG, Inc.

Address: 220A North Knoxville, Russellville, AR 72801, Contact: Anne Woker, Phone: (501) 968-6767.

(19) *Laboratory:* EIRA, Inc.

Address: 161 James Dr. West, St. Rose, LA 70087, Contact: Margaret Metcalf, Phone: (504) 469-0333.

(20) *Laboratory:* ENTEK Environmental Laboratories.

Address: 14285 Airline Highway, Baton Rouge, LA 70817-6232, Contact: Sham L. Sachdev, Phone: (504) 292-2900.

(21) *Laboratory:* Earth Tech, Inc.

Address: RR #4, Box 4, Wagoner, OK 74467, Contact: Daryl L. Lessin, Phone: (918) 485-4910.

(22) *Laboratory:* East Texas Testing Laboratory, Inc.

Address: 1717 East Erwin, Tyler, TX 75702, Contact: Gary G. LaFrance, Phone: (214) 595-4421.

(23) *Laboratory:* Environmental Analysis, Inc.

Address: Route 1, Box 12, Plainview, AR 72857, Contact: Jimmy Cunningham, Phone: (501) 272-4241.

(24) *Laboratory:* Environmental Analytical Consultants.

Address: 432 North Anthony St., New Orleans, LA 70119, Contact: Michael J. Landry, Phone: (504) 482-1717.

(25) *Laboratory:* Environmental Consultants, Inc.

Address: P.O. Box 17867, Shreveport, LA 71138-0867, Contact: Rhonda L. Dillingham, Phone: (318) 687-3771.

(26) *Laboratory:* Environmental Management, Inc.

Address: 414 West California, Ruston, LA 71270, Contact: Robert W. Flournoy, Phone: (318) 255-0060.

(27) *Laboratory:* Environmental Monitoring Service, Inc.

Address: 13008 Amarillo Ave., Austin, TX 78729, Contact: Rick Pruet, Phone: (512) 335-9116.

(28) *Laboratory:* Environmental Occupational Safety, Inc.

Address: 408 North Bowser, 100A, Richardson, TX 75081, Contact: Thomas J. Palet, Phone: (214) 644-2072.

(29) *Laboratory:* Environmental Research Institute, Inc.

Address: P.O. Box 2024, Tyler, TX 75710, Contact: Thomas R. McKee, Phone: (214) 877-9314.

(30) *Laboratory:* Envirotest, Inc.

Address: P.O. Box 42812-414, Houston, TX 77042, Contact: Daniel J. Gerhardt, Phone: (713) 782-4101.

(31) *Laboratory:* Geo-Environmental Services, Inc., Austin Office.

Address: 1106 Clayton Ln., Suite 523W, Austin, TX 78723, Contact: C. Wade Mullin, Phone: (512) 454-8378.

(32) *Laboratory:* Gerald Garrett & Associates, Inc.

Address: 2720 Stemmons Freeway, Suite 805 South, Dallas, TX 75207, Contact: J. W. Knuckles, Phone: (214) 688-4457.

(33) *Laboratory:* Hanby Analytical Laboratories, Inc.

Address: 4400 South Wayside St., Suite 107, Houston, TX 77087, Contact: John D. Hanby, Phone: (713) 649-4500.

(34) *Laboratory:* Huey, Martin, & Associates.

Address: 5613 Bruyninckx Rd., Alexandria, LA 71303, Contact: Ben F. Martin, Phone: (318) 473-6431.

(35) *Laboratory:* IHST.

Address: 6709 Parkside Ct., Arlington, TX 76016, Contact: Larry Liukonen, Phone: (817) 572-6336.

(36) *Laboratory:* Kemron Environmental Services.

Address: 16550 Highland Rd., Baton Rouge, LA 70810, Contact: Thomas Bauckham, Phone: (504) 293-8650.

(37) *Laboratory:* Kiser Engineering, Inc.

Address: 211 North River St., Sequin, TX 78155, Contact: Roy C. Mills, Phone: (800) 426-2102.

(38) *Laboratory:* Law Engineering Testing Co.

Address: 5500 Guhn Rd., Houston, TX 77040, Contact: C. H. Byrd, Phone: (713) 939-7161.

(39) *Laboratory:* Loflin Environmental Services, Inc.

Address: 701 Bradfield, Houston, TX 77060, Contact: James A. Murray, Phone: (713) 931-9316.

(40) *Laboratory:* Marshall Environmental Management.

Address: 6161 North May Ave., Suite 133, Oklahoma City, OK 73112, Contact: Charles L. Marshall, Phone: (405) 842-3415.

(41) *Laboratory:* Martin Marietta Manned Space Systems Quality Evaluation Laboratory.

Address: P.O. Box 29304, New Orleans, LA 70189, Contact: Reginald G. Salloum, Phone: (504) 257-1766.

(42) *Laboratory:* Maxim Engineers, Inc.

Address: 11601 North Lamar, Austin, TX 78753, Contact: Fernando Yopez, Phone: (512) 837-8851.

(43) *Laboratory:* Maxim Engineers, Inc.

Address: 2342 Fabens, P.O. Box 59902, Dallas, TX 75229, Contact: Steve Moody, Phone: (214) 247-7575.

(44) *Laboratory:* McClelland Management Services.

Address: 6100 Hillcroft, Suite 220, Houston, TX 77081, Contact: Jaye R. Stanley, Phone: (713) 995-9000.

(45) *Laboratory:* McKee Environmental Health Services.

Address: 11114 Sage Park, Houston, TX 77089, Contact: Ron McKee, Phone: (713) 481-3501.

(46) *Laboratory:* NUS Corporation.

Address: 900 Gemini, Houston, TX 77058, Contact: John W. McCormick, Phone: (713) 488-1810.

(47) *Laboratory:* National Asbestos Consultants Inc.

Address: 4619 North Santa Fe, Oklahoma City, OK 73118, Contact: Jerry Bowerman, Phone: (405) 528-6224.

(48) *Laboratory:* New Mexico State University, Department of Biology.

Address: Box 3AF, Las Cruces, NM 88003, Contact: Joseph LaPointe, Phone: (505) 646-1531.

(49) *Laboratory:* North American Analytical Labs.

Address: 4405 Crawford St., Abilene, TX 79605, Contact: Gene Walker, Phone: (915) 691-0172.

(50) *Laboratory:* Oklahoma State Department of Health, Special Hazard Division.

Address: P.O. Box 53551, Oklahoma City, OK 73152, Contact: William M. Kemp, Phone: (405) 271-5221.

(51) *Laboratory:* Oxford Environmental Corp.



- Address: 3224 28th St., Metairie, LA 70002, Contact: J. Robert Paterek, Phone: (504) 391-0795.
- (52) *Laboratory*: Professional Laboratories.  
Address: 1105 13th St., Lubbock, TX 79401, Contact: Craig Tannahill, Phone: (806) 747-5681.
- (53) *Laboratory*: Raba-Kistner Consultants, Inc.  
Address: P.O. Box 690287, San Antonio, TX 78269-0287, Contact: Frank B. Schweitzer, Phone: (512) 699-9090.
- (54) *Laboratory*: Regional Labs.  
Address: 919 Glen Key, Denison, TX 75020, Contact: Cliff Wood, Phone: (214) 463-6666.
- (55) *Laboratory*: Southwestern Laboratories, Inc.  
Address: 2575 Lone Star Dr., Dallas, TX 75212, Contact: Lawrence M. Thompson, Phone: (214) 631-2700.
- (56) *Laboratory*: Southwestern Laboratories, Inc., EES Division.  
Address: P.O. Box 8768, Houston, TX 77249, Contact: Phillip Yokley, Phone: (713) 692-9151.
- (57) *Laboratory*: Southwestern Public Service Co. Systems Laboratory.  
Address: P.O. Box 1261, Amarillo, TX 79170, Contact: Ronald H. Dutton, Phone: (806) 378-2121.
- (58) *Laboratory*: Standard Testing & Eng. Co.  
Address: 660 Distributors Row, Harahan, LA 70123, Contact: Robert E. Jones, Phone: (504) 734-8378.
- (59) *Laboratory*: Standard Testing and Engineering Co.  
Address: 3400 North Lincoln Blvd., Oklahoma City, OK 73105, Contact: Cheri Marcham, Phone: (405) 528-0541.
- (60) *Laboratory*: Stanley Engineering Inc. & Alpha Analytical Labs, Inc.  
Address: 2700 Northwest 39th St., Oklahoma City, OK 73112, Contact: Keith L. Stanley, Phone: (405) 948-6505.
- (61) *Laboratory*: Sunbelt Associates, Inc.  
Address: 6961 Mayo Rd., New Orleans, LA 70126, Contact: Gary C. Allen, Phone: (504) 242-5026.
- (62) *Laboratory*: Texas Department of Health Asbestos Abatement Branch.  
Address: 1100 West 49th St., Austin, TX 78756-3199, Contact: Joel H. Smith, Phone: (512) 458-7255.
- (63) *Laboratory*: Texas Research Institute, Environmental Division.  
Address: 9063 Bee Cave Rd., Austin, TX 78733, Contact: Gary Rolls, Phone: (512) 263-2101.
- (64) *Laboratory*: The Hartford Steam Boiler Inspection & Insurance Co.  
Address: 15415 Katy Fwy., Suite 300, Houston, TX 77094, Contact: Diana Spence, Phone: (713) 578-7300.
- (65) *Laboratory*: Waldemar S. Nelso & Co., Inc.  
Address: 1200 St. Charles Ave., New Orleans, LA 70130, Contact: Laura E. Yager, Phone: (504) 523-5281.
- (66) *Laboratory*: Weintritt Testing Laboratories, Inc.  
Address: 305 Andrew Guidry Rd., P.O. Box 30162, Lafayette, LA 70593, Contact: Richard G. Tietz, Phone: (318) 981-1560.
- (67) *Laboratory*: West-Paine Laboratories, Inc.  
Address: 7979 G. S. R. I. Ave., Baton Rouge, LA 70820, Contact: Jonny H. Vickers, Phone: (504) 769-4900.
- Region VII—Kansas City, KS*  
*Regional Asbestos Coordinator*:  
Wolfgang Brandner, EPA Region VII, 726 Minnesota Ave., Kansas City, KS 66101.  
(913) 236-2835, (FTS) 757-2835.
- (1) *Laboratory*: ACM Labs, Inc.  
Address: 304 North Main, P.O. Box 2073, Fairfield, IA 52556, Contact: David Fleshman, Phone: (515) 472-7402.
- (2) *Laboratory*: ALERT Analytical Laboratories.  
Address: 1900 West 47th Pl., #302, Westwood, KS 66205, Contact: Kevin Santee, Phone: (913) 831-4795.
- (3) *Laboratory*: Abshier & Associates, Ltd.  
Address: 524 Northeast Malibu Dr., Lee's Summit, MO 64063, Contact: Shirley A. Abshier, Phone: (816) 524-8203.
- (4) *Laboratory*: Ames Environmental.  
Address: 3910 Lincoln Way, Ames, IA 50010, Contact: David Fairchild, Phone: (515) 292-3400.
- (5) *Laboratory*: Asbestos Consulting & Testing.  
Address: 15001 West 101st Ter., Lenexa, KS 66215, Contact: Jim A. Pickel, Phone: (913) 492-1337.
- (6) *Laboratory*: Baird Scientific.  
Address: P.O. Box 842, Carthage, MO 64836, Contact: Gary Baird, Phone: (417) 358-5567.
- (7) *Laboratory*: Certified Environmental Management, Inc.  
Address: P.O. Box 504, Salina, KS 67402-0504, Contact: Brenda A. Tolson, Phone: (913) 536-8315.
- (8) *Laboratory*: Chart Services, Ltd.  
Address: 4725 Merle Hay Rd., Suite 214, Des Moines, IA 50322, Contact: Mary A. Finn, Phone: (515) 276-3642.
- (9) *Laboratory*: Hall-Kimbrell Environmental Services, Inc.  
Address: 4840 West 15th St., Lawrence, KS 66046, Contact: W. David Kimbrell, Phone: (913) 749-2381.
- (10) *Laboratory*: Health & Architectural Assoc., Inc.  
Address: 503 Main St., Belton, MO 64012, Contact: George S. McDowell, Phone: (816) 331-0002.
- (11) *Laboratory*: Industrial Testing Laboratories, Inc.  
Address: 2350 Seventh Blvd., St. Louis, MO 63104, Contact: William J. Lowry, Phone: (314) 771-7111.
- (12) *Laboratory*: Langston Laboratories, Inc.  
Address: 2005 West 103rd Ter. (B), Leawood, KS 66206, Contact: Alan Kerschen, Phone: (913) 341-7800.
- (13) *Laboratory*: Larron Laboratory.  
Address: 529 Broadway, Cape Girardeau, MO 63701, Contact: David J. Roth, Phone: (314) 334-8910.
- (14) *Laboratory*: MD Chemical & Testing Co., Inc.  
Address: 5205 Southwest Dr., Suite B & C, P.O. Box 67094, Topeka, KS 66667, Contact: Michael A. Dalrymple, Phone: (913) 862-1503.
- (15) *Laboratory*: Mayhew Environmental Training Associates.  
Address: 901 Kentucky, Suite 305A, Lawrence, KS 66044, Contact: Robert G. Williams, Phone: (913) 842-6382.
- (16) *Laboratory*: Microscopic Analysis, Inc.  
Address: 989 Gardenview Office Pky., St. Louis, MO 63141, Contact: Douglas N. Nimmo, Phone: (314) 993-2212.
- (17) *Laboratory*: Midwest Environmental Testing & Training, Inc.  
Address: 3500 Northeast Independence Ave., Lee's Summit, MO 64084, Contact: Steve Minshall, Phone: (816) 525-6681.
- (18) *Laboratory*: Midwestern Testing Labs, Inc.  
Address: P.O. Box 1657, Fairfield, IA 52556, Contact: Dennis Greenley, Phone: (515) 472-1881.
- (19) *Laboratory*: Nebraska Testing Laboratories, Inc.  
Address: 4123 South 67th St., Omaha, NE 68117-1086, Contact: Lynn A. Knudtson, Phone: (402) 331-4453.
- (20) *Laboratory*: Net Midwest Inc., Cedar Falls Division.  
Address: 1922 Main St., P.O. Box 625, Cedar Falls, IA 50613, Contact: Michael McGee, Phone: (319) 277-2401.
- (21) *Laboratory*: The University of Iowa, University Hygienic Laboratory.



Address: Iowa City, IA 52242, Contact: I.A. Schwabauer, Phone: (319) 353-5990.

#### REGION VIII—Denver, CO

*Regional Asbestos Coordinator:* David Combs, [8AT-TS], EPA, Region VIII, 1 Denver Place, 999-18th St., R. 1300, Denver, CO 80202-2413. (303) 293-1744, (FTS) 564-1744.

(1) *Laboratory:* ATC Environmental, Inc.

Address: 1515 East Tenth St., Sioux Falls, SD 57103, Contact: Donald Beck, Phone: (605) 338-0555.

(2) *Laboratory:* Analytica, Inc.

Address: 5930 McIntyre St., Golden, CO 80403, Contact: Daniel M. Benecke, Phone: (303) 279-2583.

(3) *Laboratory:* Associated Laboratories, Inc.

Address: 1275 Ithaca Dr., Boulder, CO 80303, Contact: Robert M. Stieha, Phone: (303) 691-2335.

(4) *Laboratory:* Bison Engineering/Research.

Address: P.O. Box 1703, Helena, MT 59624, Contact: Patricia E. Groll, Phone: (406) 442-5768.

(5) *Laboratory:* Colorado State University Department of Environmental Health.

Address: B120 Microbiology Building, Fort Collins, CO 80523, Contact: Roy C. Warbington, Phone: (303) 491-7038.

(6) *Laboratory:* DCM Science Laboratory.

Address: 12975 West 24th Pl., Golden, CO 80401, Contact: Donna C. Mefford, Phone: (303) 237-0110.

(7) *Laboratory:* Datachem, Inc.

Address: 960 West LeVoy Dr., Salt Lake City, UT 84123, Contact: Lance Eggenberger, Phone: (801) 266-7700.

(8) *Laboratory:* Dixon Information, Inc.

Address: 4806 Quail Point Roads, Salt Lake City, UT 84124, Contact: Willard C. Dixon, Phone: (801) 278-7233.

(9) *Laboratory:* Environmental Safety Systems, Inc.

Address: 11435 West 48th Ave., Wheat Ridge, CO 80033-2101, Contact: Douglas J. Fitzgerald, Phone: (303) 232-0707.

(10) *Laboratory:* HTI Laboratories & Industrial Consultants.

Address: 1806 Main Ave., Fargo, ND 58103, Contact: Constance S. Hodny, Phone: (701) 232-1399.

(11) *Laboratory:* HTI Laboratories & Industrial Consultants, Inc.

Address: 7727 West 6th Ave., Bay E, Lakewood, CO 80215, Contact:

Constance S. Hodny, Phone: (303) 773-9616.

(12) *Laboratory:* HTI Laboratories & Industrial Consultants, Inc. (Mobile Lab).

Address: Box 8192, Fargo, ND 58109, Contact: Constance S. Hodny, Phone: (701) 237-9750.

(13) *Laboratory:* Hager Laboratories, Inc.

Address: 11234 E. Caley Ave., Englewood, CO 80111, Contact: Patricia Manning, Phone: (303) 790-2727.

(14) *Laboratory:* Northern Engineering & Testing, Inc.

Address: 600 South 25th St., Billings, MT 59107, Contact: Kathleen Smit, Phone: (406) 248-9161.

(15) *Laboratory:* Occupational Health Technologies, Inc.

Address: 171 University Circle, Pueblo, CO 81005, Contact: Thomas F. Antonson, Phone: (719) 566-0422.

(16) *Laboratory:* Professional Service Ind., Inc., Pittsburgh Testing Lab. Div.

Address: 2955 South West Temple St., Salt Lake City, UT 84115, Contact: Herb Ritzman, Phone: (801) 484-8827.

(17) *Laboratory:* Sathe Analytical Lab., Inc.

Address: P.O. Box 1527, Williston, ND 58801, Contact: Neal Falk, Phone: (701) 572-3632.

(18) *Laboratory:* Survey, Management, and Design.

Address: P.O. Box 8021, Fargo, ND 58109, Contact: Peter L. Mehl, Phone: (701) 234-9556.

#### REGION IX—San Francisco, CA

*Regional Asbestos Coordinator:* Jo Ann Semones, [T-52], EPA, Region IX, 215 Fremont St., San Francisco, CA 94105. (415) 974-7290, (FTS) 454-7290.

(1) *Laboratory:* ASBESTECH.

Address: 6801 Fair Oaks Blvd., Suite H, Carmichael, CA 95608, Contact: Tommy G. Conlon, Phone: (916) 481-8902.

(2) *Laboratory:* Analytical Research Laboratories, Inc.

Address: 160 Taylor St., P.O. Box 2360, Monrovia, CA 91016, Contact: D.W. Kohlenberger, Phone: (818) 357-3247.

(3) *Laboratory:* Applied Petrography, Inc.

Address: 8520 Sorenson Ave., Suite E, Santa Fe Springs, CA 90670, Contact: Joanna Deane, Phone: (213) 945-3468.

(4) *Laboratory:* Asbestos Management Services, Inc.

Address: 14829 Proctor Ave., Industry, CA 91746, Contact: Joseph Johnson, Phone: (818) 961-4303.

(5) *Laboratory:* Associated Safety Consultants.

Address: 13363 Saticoy St., #204, North Hollywood, CA 91605, Contact: Dan Flaherty, Phone: (818) 503-0471.

(6) *Laboratory:* BSE Labs, Inc.

Address: 50 East Foothill Blvd., Arcadia, CA 91006, Contact: Charles Redinger, Phone: (818) 355-0818.

(7) *Laboratory:* California Water Labs.

Address: 1430 Carpenter Ln., Modesto, CA 95352, Contact: Gloria Poling, Phone: (209) 527-4050.

(8) *Laboratory:* Cam Lab.

Address: 3435 Artesia Blvd., Suite 41, Torrance, CA 90504, Contact: Michael R. Tiffany, Phone: (213) 327-8879.

(9) *Laboratory:* Certified Testing Laboratories, Inc.

Address: 2905 East Century Blvd., South Gate, CA 90280, Contact: Stuart E. Salot, Phone: (213) 564-2641.

(10) *Laboratory:* Clark Geological Services.

Address: 3479 Edison Way, Fremont, CA 94538, Contact: Joyce Lucas-Clark, Phone: (415) 659-1784.

(11) *Laboratory:* Clayton Environmental Consultants, Inc.

Address: 1252 Quarry Ln., Pleasanton, CA 94566, Contact: Warren C. Steele, Phone: (415) 426-2600.

(12) *Laboratory:* Dan Napier & Associates.

Address: 15342 Hawthorne Blvd., Suite 207, P.O. Box 1540, Lawndale, CA 90260-6440, Contact: Dan Napier, Phone: (213) 644-1924.

(13) *Laboratory:* Dyer Laboratories, Inc.

Address: West 237th St., Torrance, CA 90505, Contact: D.L. Dyer, Phone: (213) 530-3322.

(14) *Laboratory:* E & A Env'l Service, Inc.

Address: 8132 Firestone Blvd., Suite 142, Downey, CA 90241, Contact: Ebbiteanga Abili.

(15) *Laboratory:* EMS Laboratories.

Address: 211 Pasadena Ave., South Pasadena, CA 91030-2919, Contact: Bernadine M. Kolk, Phone: (213) 257-2002.

(16) *Laboratory:* Env'l Safety Systems, Inc.

Address: 9041-17 Dice Rd., Santa Fe Springs, CA 90670, Contact: Al Fahrenbruch, Phone: (213) 944-2520.

(17) *Laboratory:* Enviromed, Inc.

Address: 2200 East River Rd., Suite 122, P.O. Box 30854, Tucson, AZ 85718, Contact: Steven Pike, Phone: (602) 577-0818.



- (18) *Laboratory:* Environmental In Ovarations.  
Address: 7700 Edgewater Dr., Suite 665, Oakland, CA 94621, Contact: Kip Fout, Phone: (415) 632-0104.
- (19) *Laboratory:* Eureka Laboratories, Inc.  
Address: 3401 La Grande Blvd., Sacramento, CA 95823, Contact: Steven K. Leung, Phone: (916) 428-1193.
- (20) *Laboratory:* Fiberquant, Inc.  
Address: 4824-B South 35th St., Phoenix, AZ 85040, Contact: Larry Pierce, Phone: (602) 276-6138.
- (21) *Laboratory:* Firemans Fund, Environmental Laboratory.  
Address: 3700 Lakeville Highway, Petaluma, CA 94952, Contact: Jerry Tuma, Phone: (707) 778-4160.
- (22) *Laboratory:* Forensic Analytical Specialities, Inc.  
Address: 3777 Depot Rd., Suite 408, Hayward, CA 94545, Contact: Stephen A. Shaffer, Phone: (415) 887-8828.
- (23) *Laboratory:* GT Environmental Laboratories, Western Region.  
Address: 4080-C Pike Ln., Concord, CA 94520, Contact: Safy Khalifa, Phone: (415) 685-7852.
- (24) *Laboratory:* Gemeni Petrographic Investigations.  
Address: P.O. Box 2127, Novato, CA 94948, Contact: Peter A. Almendinger, Phone: (415) 892-9016.
- (25) *Laboratory:* Hall-Kimbrell Environmental Services.  
Address: 2615 South King St., Suite 2A, Honolulu, HI 96826, Contact: S. Gil Cobb, Phone: (913) 749-2381.
- (26) *Laboratory:* Hall-Kimbrell Environmental Services.  
Address: 646 South Brea Canyon Rd., Walnut, CA 91789, Contact: Joel K. Davidson, Phone: (714) 594-3232.
- (27) *Laboratory:* Health Sciences Associates.  
Address: 10771 Noel St., Los Alamitos, CA 90720, Contact: Kathy S. Jones, Phone: (714) 220-3922.
- (28) *Laboratory:* IT Corporation—Cerritos.  
Address: 17605 Fabrica Way, Cerritos, CA 90701, Contact: Mary Hammons, Phone: (213) 921-9831.
- (29) *Laboratory:* J.M. Cohen, Inc.  
Address: 155 Bovet Rd., Suite 300, San Mateo, CA 94402, Contact: Joel Cohen, Phone: (415) 349-9737.
- (30) *Laboratory:* Kelco Asbestos Analytical Services.  
Address: P.O. Box 1339, Fremont, CA 94538, Contact: Bonnie Lee Kellogg, Phone: (415) 659-9751.
- (31) *Laboratory:* McClara Laboratory, Asbestos Control Division.  
Address: 1231 Gary Way, Carmichael, CA 95608, Contact: Michael McClara, Phone: (916) 489-9202.
- (32) *Laboratory:* McCrone Environmental Services, Inc.  
Address: 120 Newport Center Dr., Suite 240, Newport Beach, CA 92660, Contact: William Millar, Phone: (714) 759-6619.
- (33) *Laboratory:* Med-Tox Associates, Inc.  
Address: 1229 Morena Blvd., San Diego, CA 92110, Contact: Thomas Vernon Dagenhart, Phone: (619) 276-8843.
- (34) *Laboratory:* Micro-Chem Laboratories.  
Address: 1550 Dell Ave., Suite E, Campbell, CA 95008, Contact: Robert O'Neill, Phone: (408) 374-3360.
- (35) *Laboratory:* Microanalytical Services, Inc.  
Address: 201 South Lake Ave., Suite 402, Pasadena, CA 91101, Contact: Nancy Carraway, Phone: (818) 356-7400.
- (36) *Laboratory:* Microprobe.  
Address: 5104 East Burns, Tucson, AZ 85711, Contact: James R. Kessler, Phone: (602) 745-1189.
- (37) *Laboratory:* National Asbestos Labs, Inc.  
Address: 2235 Polvorosa Ave., Suite 220, San Leandro, CA 94577, Contact: Kevin Smith, Phone: (415) 357-9555.
- (38) *Laboratory:* Particle Diagnostics, Inc.  
Address: 1274 Morena Blvd., San Diego, CA 92109, Contact: Dan Baxter, Phone: (619) 276-2200.
- (39) *Laboratory:* Precision Micro-Analysis.  
Address: 5665 Power Inn Rd., Suite 102, Sacramento, CA 95824, Contact: J. Benjamin Smith, Phone: (916) 381-0694.
- (40) *Laboratory:* R.J. Lee Group, Inc.  
Address: 2424 6th St., Berkeley, CA 94710, Contact: Jesse E. Fisher, Phone: (415) 486-8319.
- (41) *Laboratory:* Radiation Detection Co.  
Address: 162 Wolfe Rd., P.O. Box 1414, Sunnyvale, CA 94088, Contact: Susan Gagner, Phone: (408) 735-8700.
- (42) *Laboratory:* San Diego Gas & Electric Co., Environmental Analysis Section.  
Address: P.O. Box 1831, San Diego, CA 92112, Contact: Thomas Reel, Phone: (619) 696-2545.
- (43) *Laboratory:* Santa Rita Analytical.  
Address: 5055 East Broadway, Suite D-208, Tucson, AZ 85711, Contact: James C. Faas, Phone: (602) 790-4491.
- (44) *Laboratory:* Schwein/Christensen Eng. Ltd.  
Address: 3397 Mt. Diablo Blvd., Suite E, Lafayette, CA 94549, Contact: Conrad Christensen, Phone: (415) 284-3311.
- (45) *Laboratory:* Smith-Emery Co., Environmental/Chemical Dept.  
Address: 781 East Washington Blvd., Los Angeles, CA 90021, Contact: Jack C. Carmody, Phone: (213) 749-3411.
- (46) *Laboratory:* Southwest Hazard Control, Inc.  
Address: 10941 North Coyote Ln., Tucson, AZ 85741, Contact: Gerald J. Karches, Phone: (602) 744-1060.
- (47) *Laboratory:* Sunshine Environmental Laboratory.  
Address: 2681 Lincoln Rd., Las Vegas, NV 89115, Contact: Nathan M. Lencioni, Phone: (702) 452-3952.
- (48) *Laboratory:* TMA/NORCAL Corporation.  
Address: 2030 Wright Ave., Richmond, CA 94804, Contact: Rosemary Sliney, Phone: (415) 235-2633.
- (49) *Laboratory:* Tabershaw & Associates, Inc.  
Address: 3938 East Grant Rd., #433, Tucson, AZ 85712, Contact: Irving R. Tabershaw, Phone: (602) 299-3302.
- (50) *Laboratory:* Toxscan Control Lab.  
Address: 1234 Highway I, Watsonville, CA 95076, Contact: Frank Shields, Phone: (408) 724-4427.
- (51) *Laboratory:* Truesdale Laboratories, Inc.  
Address: 14201 Franklin Ave., Tustin, CA 92680, Contact: Karl Schiller, Phone: (714) 730-6239.
- (52) *Laboratory:* United States Testing, Inc. EST-West.  
Address: 3491 Kurtz St., P.O. Box 80985, San Diego, CA 92110, Contact: Craig Sobotka, Phone: (619) 222-0544.
- (53) *Laboratory:* Unitek Environmental Consultants, Inc.  
Address: 2889 Mokumoa St., Honolulu, HI 96819, Contact: Irene Enoki, Phone: (808) 834-1444.
- (54) *Laboratory:* University Associates, Ltd.  
Address: 3791 North Camino De Oeste, Tucson, AZ 85745, Contact: John D. Repko, Phone: (602) 743-7918.
- (55) *Laboratory:* Van Houten Consultants, Inc.  
Address: P.O. Box 2659, Novato, CA 94948, Contact: Gregory P. Arnold, Phone: (415) 897-6805.
- (56) *Laboratory:* Wesco Laboratories.



Address: 14 Galli Dr., Suite A, Novato, CA 94947, Contact: John Hembrow-Beach, Phone: (415) 883-6425.

(57) *Laboratory*: Western Technologies, Inc.

Address: 3737 East Broadway Rd., P.O. Box 21387, Phoenix, AZ 85036, Contact: Denise Miller, Phone: (602) 437-3737.

#### REGION X—Seattle, WA

##### *Regional Asbestos Coordinator:*

Walter Jasper, EPA, Region X, 1200 Sixth Ave. (AT-083), Seattle, WA 98101, (206) 442-4762, (FTS) 399-2870.

(1) *Laboratory*: AM TEST, Inc.

Address: 14603 Northeast 87th St., Redmond, WA 98052, Contact: John T. Dailey, Phone: (206) 885-1664.

(2) *Laboratory*: Asbestos Microscopy, Inc.

Address: 10463 Northeast Fourth Plain Rd., Vancouver, WA 98662, Contact: Paul Carlson, Phone: (206) 256-6455.

(3) *Laboratory*: Cascade Analytical Service.

Address: 3640 South Cedar St., Suite O, Tacoma, WA 98409, Contact: Juin B.J. TeVrucht, Phone: (206) 472-6909.

(4) *Laboratory*: Coffey Laboratories, Inc.

Address: 4914 Northeast 122nd Ave., Portland, OR 97230, Contact: Fredrick C. Colley, Phone: (503) 254-1794.

(5) *Laboratory*: Eastwood Testing Laboratory, Inc.

Address: 7325 Southeast 133rd Pl., Portland, OR 97236, Contact: Misko Maynard, Phone: (503) 761-0922.

(6) *Laboratory*: Environmental Consulting Services, Inc.

Address: 1259 Willamette St., Eugene, OR 97401, Contact: Richard W. Carlin, Phone: (503) 345-6790.

(7) *Laboratory*: Environmental Consulting Services, Inc.

Address: 3601 Northwest Yeon, Suite 134, Portland, OR 97210, Contact: Sheila Monroe, Phone: (503) 227-7210.

(8) *Laboratory*: Environmental Safety Systems, Inc.

Address: 12822 Gateway Dr., Seattle, WA 98168, Contact: Richard C. Thompson, Phone: (206) 243-6573.

(9) *Laboratory*: Environmental Science & Eng. Inc.

Address: 1205 E. Int. Airport Rd., Suite 100, Anchorage, AK 99518, Contact: Doug Jones, Phone: (907) 561-3055.

(10) *Laboratory*: Frandon Enterprises, Inc.

Address: 511-North 48th, Seattle, WA 98103, Contact: Donald M. Wallace, Phone: (206) 633-2341.

(11) *Laboratory*: HAZCON, Inc.

Address: 5950 6th Ave. S., Seattle, WA 98108, Contact: Maria K. Majar, Phone: (206) 763-7364.

(12) *Laboratory*: Hanford Env. Health FND/NHS Inc.

Address: 805 Goethals Dr., Richland, WA 99352, Contact: Maureen Hamilton, Phone: (509) 376-6980.

(13) *Laboratory*: Hazcon, Inc.

Address: 16325 Southwest Boones Ferry Rd., #107, Lake Oswego, OR 97035, Contact: Gerald Liddell, Phone: (503) 636-7371.

(14) *Laboratory*: M & M Environmental, Inc.

Address: 3340 East 11th St., Tacoma, WA 98421, Contact: Mike Reid, Phone: (206) 572-2772.

(15) *Laboratory*: MEI-Charlton, Inc.

Address: 2233 Southwest Canyon Rd., Portland, OR 97201-2499, Contact: Andrew M. Held, Phone: (503) 228-9663.

(16) *Laboratory*: Microlab Northwest.

Address: 7609 140th Pl., NE, Redmond, WA 98052, Contact: Russel Crutcher, Phone: (206) 885-9419.

(17) *Laboratory*: Northern Testing Laboratories, Inc.

Address: 600 University Plaza W., Suite A, Fairbanks, AK 99709, Contact: Linda J. Hendershot, Phone: (907) 479-3115.

(18) *Laboratory*: Northwest Asbestos Consultants.

Address: 524 Northwest State, Bend, OR 97701, Contact: Dale A. Schmidt, Phone: (503) 382-7553.

(19) *Laboratory*: Northwest Environmental Services.

Address: Maritime Bldg., Suite 336, 911 Western Ave., Seattle, WA 98104, Contact: Mia D. Sazon, Phone: (206) 662-8353.

(20) *Laboratory*: Northwest Laboratories of Seattle Inc.

Address: 1530 First Ave. S., Seattle, WA 98134, Contact: Samuel O. LeBarron, Phone: (206) 622-0680.

(21) *Laboratory*: Oregon Analytical Laboratory.

Address: 14655 Southwest Old Schools Ferry Rd., Beaverton, OR 97007, Contact: Howard Boorse, Phone: (503) 644-5300.

(22) *Laboratory*: Orion Laboratories.

Address: 5007 Pacific Hwy., E., Suite C-6, Fife, WA 98424, Contact: Mike Martin, Phone: (206) 922-9008.

(23) *Laboratory*: Professional Service Ind., Inc.

Address: 700 West 58th St., Anchorage, AK 99518-1632, Contact: John Buzdor, Phone: (907) 561-2400.

(24) *Laboratory*: Professional Service Ind., Inc.

Address: 611 Southeast Harrison St., Portland, OR 97214, Contact: Judy Grant, Phone: (503) 232-2183.

(25) *Laboratory*: Quest Environmental Inc.

Address: 709 West Int'l Airport Rd., Suite 100, Anchorage, AK 99518, Contact: John Johnston, Phone: (907) 563-0050.

(26) *Laboratory*: Snake River Asbestos, Inc.

Address: 1310 Vista, Suite 1A, Boise, ID 83705, Contact: Robin Schmidt, Phone: (208) 336-4993.

(27) *Laboratory*: Taylor Laboratories, Inc.

Address: 724A Sigina Way, Sitka, AK 99835, Contact: Lawrence Taylor, Jr., Phone: (907) 747-6364.

(28) *Laboratory*: Terra Test Analytical Labs, Inc.

Address: 1003 Main St., Suite 2, Summer, WA 98390, Contact: Pedro G. Armenta, Phone: (206) 863-5404.

(29) *Laboratory*: Weyerhaeuser Co., Safety & Health Service Laboratory.

Address: 32901 32nd Dr., S., Federal Way, WA 98003, Contact: Christopher Kirk, Phone: (206) 924-6639.

#### *Non-Domestic PLM Laboratories*

(1) *Laboratory*: Chatfield Technical Consulting, Ltd.

Address: 2071 Dickson Rd., Mississauga, Ontario, Canada L5B 1YB, Contact: Eric Chatfield, Phone: (416) 896-7611.

(2) *Laboratory*: McMaster Laboratory, Occupational Health Laboratory.

Address: 1200 Main St. West, Hamilton, Ontario, Canada L8N 3Z5, Contact: Dave K. Verma, Phone: (416) 525-9140.

(3) *Laboratory*: Ontario Research Foundation, Sheridan Park Research Comm.

Address: Mississauga, Ontario, Canada L5K 1B3, Contact: Irina Sherman, Phone: (416) 822-4111.

(4) *Laboratory*: Okinawa Eng. Analysis Ctr. Co., Ltd.

Address: 777 Ojana, Ginowan, Okinawa, Japan 901-22, Contact: Fuminori Nishime, Phone: (098) 897-0910.

Dated: February 17, 1989.

Charles L. Elkins,

Director, Office of Toxic Substances.

[FR Doc. 89-4924 Filed 2-27-89; 8:45 am]

BILLING CODE 6580-50-M



# pesticide resistant crops

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**Tuesday  
February 28, 1989**

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## **Part III**

## **Environmental Protection Agency**

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**40 CFR Parts 712 and 716**

**Addition of Chemicals to Information  
Rules; Certain Pesticide Inert Ingredients;  
Final Rule**



**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Parts 712 and 716****[OPTS-84024A; FRL-3528-4]****Addition Of Chemicals To Information Rules; Certain Pesticide Inert Ingredients****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** EPA is requiring the reporting of information on certain pesticide inert ingredients listed in this rule. Both the Office of Toxic Substances and the Office of Pesticide Programs are concerned about the potential adverse human and environmental effects on these chemical substances, because they may have uses in industrial/commercial formulations, and are used as inert ingredients in pesticide formulations. Thus, these chemical substances are added to the lists of chemical substances and mixtures in the Preliminary Assessment Information Rule (PAIR) (40 CFR Part 712), and/or the Health and Safety Data Reporting Rule (40 CFR Part 716). Under the PAIR, EPA requires manufacturers and importers of these chemical substances to provide the Agency with production, use, and exposure-related information; the Health and Safety Data Reporting Rule requires manufacturers, importers, and processors to submit lists and copies of unpublished health and safety studies on the chemical substances.

**DATES:** In accordance with 40 CFR 23.5 (50 FR 7271), this rule shall be promulgated for purposes of judicial review at 1 p.m. eastern [daylight/standard] time on March 14, 1989. This rule shall become effective on April 13, 1989.

**FOR FURTHER INFORMATION CONTACT:** Michael M. Stahl, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. EB-44, 401 M St. SW., Washington, DC 20460, Telephone: (202) 554-1404, TDD: (202) 554-0551.

**SUPPLEMENTARY INFORMATION:** This Federal Register notice discusses the following final rule components: (1) Statutory authority and regulatory background requirements; (2) a summary of the reporting requirements for PAIR (40 CFR Part 712) and the Health and Safety Data Reporting Rule/TSCA section 8(d) (40 CFR Part 716); (3) the lists of chemical substance for which reporting is required under PAIR and/or TSCA section 8(d); (4) the background, objectives, and rationale for this rule; (5)

public comments related to the proposal of this rule; (6) the economic analyses and projected reporting burden hours for PAIR and TSCA section 8(d) reporting; (7) the public record and references; and (8) statutory and regulatory review requirements.

Public reporting burden for this collection of information is estimated to average 78 hours for each firm (25 hours per report) for PAIR reporting and 27.5 hours for each firm (5.4 hours per study) for TSCA section 8(d) reporting, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM-223, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer of EPA."

**I. Statutory Authority**

This rule is being promulgated under the authority of sections 8(a) and 8(d) of the Toxic Substances Control Act (TSCA) (15 U.S.C. 2607(a) and (d)).

**II. Regulatory Background**

Under the authority of section 8(a) of TSCA, EPA promulgated PAIR in 1982 (40 CFR Part 712). This model section 8(a) rule established standard reporting requirements for manufacturers and importers of the chemical substances that the Agency lists in the rule. These manufacturers and importers are required to submit a one-time report on production, use, and exposure-related information using the Preliminary Assessment Information Manufacturer's Report (EPA Form 7710-35). EPA uses this model section 8(a) rule to gather quickly current information on chemical substances of concern.

Under the authority of section 8(d) of TSCA, EPA issued the model Health and Safety Data Reporting Rule in 1982 (40 CFR Part 716, hereinafter referred to as the section 8(d) model rule). An amendment to the section 8(d) model rule was published in the Federal Register of September 15, 1986 (51 FR 32720). The amendment lengthened the rule's sunset provision, added a provision for biennial review, limited three reporting exemptions, clarified the rule's confidentiality provisions, and made technical revisions. The section 8(d) model rule contains standard

reporting requirements for persons who manufacture, import, or process (or propose to manufacture, import, or process) chemical substances and mixtures that are listed in the rule. The section 8(d) model rule requires these persons to provide EPA with copies and lists of health and safety studies pertaining to the listed chemical substances and mixtures. EPA has the authority to amend the list of chemical substances and mixtures in the section 8(d) model rule. Generally, the Agency may add chemical substances and mixtures to the section 8(d) model rule by means of a chemical-specific amendment to the section 8(d) model rule, as EPA is doing with this rule.

The reporting requirements of the section 8(d) model rule are applicable as of the effective date a chemical substance or mixture is listed in the rule, and remain in effect after the listing date. The section 8(d) model rule also is applicable to persons who manufactured, imported, or processed a listed chemical substance or mixture (or proposed to do so) during the 10 years prior to the listing date. Most persons subject to the rule are required to submit two types of data to EPA:

1. Copies of unpublished health and safety studies pertaining to chemical substances and mixtures listed in the rule, provided that such studies are in the possession of the manufacturer, importer, or processor.

2. Lists of unpublished health and safety studies which are being conducted by (or for) the manufacturer, importer, or processor, or which are known to but not in the possession of the manufacturer, importer, or processor.

Potential respondents to this final rule should refer to 40 CFR Part 716 for complete information on section 8(d) reporting requirements.

**III. Summary of This Final Rule**

EPA is adding certain chemical substances suspected of having adverse effects on human health and/or the environment to the lists of chemical substances and mixtures in PAIR and/or the section 8(d) model rule. Through these amendments, EPA will trigger reporting of production, use, and exposure-related information, and/or submission of lists and copies of health and safety studies.

Manufacturers and importers of the chemical substances listed for PAIR reporting in this rule are subject to the provisions of 40 CFR Part 712. Reporting under PAIR involves a one-time submission of the rule's reporting form (EPA Form 7710-35) for each plant site



where a listed chemical substance is produced or imported. Complete details of the reporting requirements, including exemptions and a facsimile of the reporting form, are fully described in 40 CFR Part 712. Copies of the reporting form and a question and answer document to assist submitters in completing the form are available from the TSCA Assistance Office. Their address and telephone number precedes Unit I of this rule.

Under the section 8(d) model rule, manufacturers, importers, and processors of the chemical substances listed for section 8(d) reporting are subject to the provisions of 40 CFR Part 716. The section 8(d) reporting requirements for the chemical substances listed in this rule remain in effect for 10 years after the effective date of this rule. Detailed guidance for reporting unpublished health and safety data is provided in 40 CFR Part 716.

Reporting exemptions are also found in 40 CFR Part 716.

TSCA section 8(a)/PAIR reports and section 8(d) health and safety studies must be submitted to the following address by June 12, 1989: Document Processing Center (TS-790), Office of Toxic Substances, Environmental Protection Agency, Rm. L-100, 401 M St. SW., Washington, DC 20460, Attn: (insert either: PAIR or Section 8(d) Reporting).

#### IV. Chemical Substances Added to the Rules

CAS number	Trivial/common chemical name	TSCA chemical substance inventory name
<b>A. Chemical Substances Added to Both Pair and the Section 8(d) Model Rule</b>		
68-12-2	Dimethyl formamide.....	Formamide, N,N-dimethyl-
75-37-6	1,1-Difluoroethane.....	Ethane, 1,1-difluoro-
75-43-4	Dichloromonofluoromethane.....	Methane, dichlorofluoro-
75-45-6	Chlorodifluoromethane.....	Methane, chlorodifluoro-
75-52-5	Nitromethane.....	Methane, nitro-
75-68-3	1-Chloro-1,1-difluoroethane.....	Ethane, 1-chloro-1,1-difluoro-
79-24-3	Nitroethane.....	Ethane, nitro-
88-04-0	p-Chloro-m-xylene.....	Phenol, 4-chloro-3,5-dimethyl-
95-14-7	1,2,3-Benzotriazole.....	1H-Benzotriazole
100-02-7	p-Nitrophenol.....	Phenol, 4-nitro-
101-84-8	Diphenyl oxide.....	Benzene, 1,1'-oxybis-
102-71-6	Triethanolamine.....	Ethanol, 2,2',2''-nitrilotris-
107-98-2	1-Methoxy-2-propanol.....	2-Propanol, 1-methoxy-
111-42-2	Diethanolamine.....	Ethanol, 2,2'-iminobis-
111-76-2	2-Butoxyethanol.....	Ethanol, 2-butoxy-
111-77-3	Diethylene glycol monomethyl ether.....	Ethanol, 2-(2-methoxy ethoxy)-
111-90-0	Diethylene glycol monoethyl ether.....	Ethanol, 2-(2-ethoxy ethoxy)-
120-32-1	2-Benzyl-4-chlorophenol.....	Phenol, 4-chloro-2-chlorophenol (phenyl methyl)-
124-18-3	1-Butoxy ethoxy-2-propanol.....	2-Propanol, 1-(2-butoxy ethoxy)-
131-17-9	Diallyl phthalate.....	1,2-Benzenedicarboxylic acid, di-2-propenyl ester
5131-66-8	1-Butoxy-2-propanol.....	2-Propanol, 1-butoxy-
25168-06-3	Isopropyl phenol.....	Phenol, (1-methylethyl)-
25498-49-1	Tripropylene glycol monomethyl ether.....	Propanol, [2-(2-methoxy methylethoxy)methyl ethoxy]-
29385-43-1	Tolyl triazole.....	1H-Benzotriazole, methyl-
34590-84-8	Dipropylene glycol monomethyl ether.....	Propanol, (2-methoxy methylethoxy)-
<b>B. Chemical Substances Added to Pair Only</b>		
74-83-9	Methyl bromide.....	Methane, bromo-
75-00-3	Chloroethane.....	Ethane, chloro-
79-00-5	1,1,2-Trichloroethane.....	Ethane, 1,1,2-trichloro-
142-28-9	1,3-Dichloropropane.....	Propane, 1,3-dichloro-
<b>C. Chemical Substances Added to the Section 8(d) Model Rule Only</b>		
76-13-1	1,1,2-Trichloro-1,2,2-trifluoroethane.....	Ethane, 1,1,2-trichloro-1,2,2-trifluoro-
80-62-6	Methyl methacrylate.....	2-Propenoic acid, 2-methyl-, methyl ester
97-88-1	Butyl methacrylate.....	2-Propenoic acid, 2-methyl-, butyl ester
140-88-5	Ethyl acrylate.....	2-Propenoic acid, ethyl ester

#### V. Background, Objectives, and Rationale For This Final Rule

EPA's reasons for requiring section 8(a) and/or 8(d) reporting on the chemical substances which are listed in this rule are unchanged since the proposal of this rule. Persons wishing to read the discussion of the Agency's objectives and rationale for this final rule should refer to the preamble of the proposed rule (i.e., section IV. Background, Objectives, and Rationale for this Proposed Rule) published in the

Federal Register of May 14, 1987 (52 FR 18245).

Also, the Agency will follow procedures for the release of PAIR aggregate statistics as prescribed in a rule-related notice published in the Federal Register of June 13, 1983 (48 FR 27041). Included in the notice are procedures for requesting exemptions from the release of aggregate data. Exemption requests concerning the release of aggregate data on any chemical substance must be received by EPA no later than June 12, 1989.

In addition to the Agency's objectives and rationale for this final rule, the Agency is providing clarification of several issues raised by commenters on the proposed rule.

1. *No known use as an inert ingredient.* Several commenters stated that they do not know of any producers marketing the listed chemical substances as an inert ingredient in pesticide formulations.

The Agency needs the section 8(a) and section 8(d) information to assess the TSCA uses of these chemical



substances; they are all components of registered pesticide formulations. The commenters may not know of these uses because some manufacturers or processors may keep their production or marketing information confidential.

2. *p*-Chloro-*m*-xylene (PCMX; CAS No. 88-04-0). One manufacturer stated that *p*-Chloro-*m*-xylene (PCMX) is used only as a registered active pesticide ingredient and is therefore not subject to reporting under section 8(a) or section 8(d) of TSCA.

Those persons who are required to report data on PCMX, and other chemical substances, are not subject to reporting under TSCA is the chemical substance is used solely as a registered pesticide. If the producers market or use PCMX for any purpose other than as a registered active pesticide ingredient, then they are subject to reporting. Thus, the Agency is requiring PAIR and TSCA section 8(d) reporting for the chemical substances to determine and gather information on uses other than as a registered active pesticide ingredient.

3. *Low production volume*. Several commenters stated that a particular chemical substance is produced only in low production and has a low exposure potential and should not be listed on the rule.

The section 8(a) and section 8(d) rules will assure that the Agency has all available data to assess risks, including confidential production information of which the commenters may not be aware. However, 40 CFR Part 712 provides specific exemptions for certain manufacturers and importers, including an exemption for low production volume (see 40 CFR 712.25).

4. *Risk assessment*. Several commenters stated that existing data for some of the listed chemical substances are adequate to assess the risks.

EPA has reviewed existing data and believes that the information is not adequate to fully assess the risks. The Agency needs to evaluate all existing data, not only those voluntarily submitted, to assess risks. Therefore, the Agency is requiring reporting on the listed chemical substances to be certain that all existing data, which will permit EPA to adequately assess the risks associated with the listed chemical substances, have been reported to the Agency.

5. *Need for data on Methyl methacrylate* (CAS No. 80-62-6), *Butyl methacrylate* (CAS No. 97-88-1), and *Ethyl acrylate* (CAS No. 140-88-5). The Agency is requesting section 8(d) reporting for these chemical substances because it believes all available data may be needed to complete the assessment of risk to human health for

these chemical substances and to determine further regulatory action under TSCA.

One commenter stated that while it supports addition of these chemical substances to the section 8(d) model rule, it indicated that more than 60 days may be needed to respond. The Agency recognizes that extensions to the reporting schedule may be necessary. Those persons who need additional time in order to report under section 8(d) are directed to 40 CFR 716.60(c) for specific requirements for requesting an extension to the reporting time.

6. *Previous submission of data/information*. Several commenters stated that data have been submitted to the Agency via the Interagency Testing Committee (ITC) or the National Toxicology Program (NTP) and, therefore, do not need to be resubmitted.

The Agency will use data submitted under other requirements to characterize fully the risks associated with the chemical substances. However, the Agency refers those who have previously reported information on the listed chemical substances, to EPA or other Federal agencies, to 40 CFR 712.30(a) and/or 716.20 and 716.35 for specific requirements for reporting previously submitted information and exemptions to reporting.

7. *Need for additional data on 1,2,3-Benzotriazole* (CAS No. 95-14-7) and *Tolyl triazole* (CAS No. 29385-43-1). The Agency has reviewed data submitted on the chemical substances and determined that these data are not sufficient to characterize fully the risks associated with the use of these chemical substances as pesticide inert ingredients. Therefore, the Agency will not remove these chemical substances from this final rule. However, the Agency will accept previously reported information on these chemical substances, if the reporting requirements for 40 CFR 712.30(a), 716.20, and 716.35 are met.

8. *Chemical substances removed since proposal of this final rule*. The Agency has reviewed public comments, submitted data and regulatory scheduling and has decided to remove three chemical substances from this final rule. Ethylbenzene (CAS No. 100-41-4) has been removed from this final rule because it was added to the section 8(d) model rule by an amendment published between the proposal and this final rule (see 40 CFR 716.120).

The Agency has reviewed submitted data for Butyrolactone (CAS No. 96-48-0) and Diocetyl sodium sulfosuccinate (CAS No. 577-11-7) and it believes that the human health risks associated with use of the chemical substances

regulated under TSCA and as pesticide inert ingredients are fully characterized. In addition, the chemical substances have been removed from the Office of Pesticides Programs' List 2 inert ingredients. Thus, the Agency is removing the chemical substances from this final rule.

## VI. Economic Analysis

EPA's analysis of the reporting requirements of this final rule is contained in two documents, both of which are in the public record for this final rule (OPTS-84024A).

Based on EPA's experience with section 8(a) and section 8(d) reporting rules, the Agency estimates that the total reporting costs for establishing reporting requirements for the listed chemical substances to be \$374,672. The cost of this final rule will be low in comparison with its potential benefits. Production, use, and exposure-related information and/or submission of lists and copies of unpublished health and safety studies concerning these chemical substances will substantially improve EPA's ability to identify and assess potential public health and/or environmental problems with regard to the chemical substances. Therefore, the Agency will be better able to determine whether further regulatory action would be necessary for these listed chemical substances.

EPA estimates the total reporting cost for the PAIR portion of this rule to be \$223,319. To calculate this figure, EPA used the TSCA Inventory to generate a list of manufacturers and importers of these chemical substances. After excluding firms which reported no production or importation, 91 companies operating 98 sites were listed as manufacturers or importers of the chemical substances. Since 28 of these companies qualify as a small business as defined in 40 CFR 712.25(c), EPA expects 63 firms to report a total of 195 reports.

### Reporting cost:

(a) 195 reports expected at \$807/report .....	\$157,365
(b) 98 familiarization cases at \$673/case .....	65,954
Reporting cost subtotal .....	223,319
Average cost per site .....	2,279
Average cost per firm .....	3,545

### Reporting burden (hours):

(a) familiarization (18 hours per site times 98 sites) .....	1,764
(b) reporting (16 hours per report times 195 reports) .....	3,120
Total reporting burden hours .....	4,884



Subtotal (PAIR portion).....	\$223,319
EPA cost: Processing cost (\$91/ report times 195 reports).....	\$17,745

EPA estimates the total reporting cost for establishing the section 8(d) reporting requirements portion of this rule to be \$151,353. This cost estimate is relatively high, because the Agency is uncertain about the likely number of respondents to the rule. Although EPA has used the best available data to make its economic projections, much of the data are not current.

Therefore, EPA intends to overestimate rather than underestimate the reporting burden.

The estimated reporting costs (for the chemical industry as a whole) for the section 8(d) portion of this rule are broken down as follows:

#### Reporting Cost

File search:	
Initial review.....	\$39,168
Site identification.....	17,748
File search at site.....	36,018
Listing ongoing studies.....	1,827
Cost of file search.....	94,761
Copying studies.....	5,699
Managerial review.....	35,496
Ongoing reporting.....	15,197
Reporting cost subtotal.....	151,353
Average cost per site.....	950
Average cost per firm.....	1,425
Reporting burden (hours):	
(a) Initial review (2 hours per firm times 288 firms).....	576
(b) Reporting (25.54 hours per firm times 87 firms).....	2,222
Total reporting burden hours.....	2,798
Subtotal (section 8(d) por- tion).....	\$151,353
Total (PAIR and section 8(d) reporting costs).....	\$374,872

#### VII. Rulemaking Record

EPA has established a public record for this rulemaking (docket control number OPTS-84024A). The record includes basic information considered by the Agency in developing this final rule. EPA will supplement the record with additional information as it is received. The record now includes the following:

1. The proposal to this rule (52 FR 18245).

2. Economic analysis for amending the Preliminary Assessment Information Rule for 29 inert pesticide ingredients. U.S. Environmental Protection Agency, Office of Pesticides and Toxic Substances, Washington, DC.

3. Economic analysis for amending the Health and Safety Data Reporting Rule for 29 inert pesticide ingredients. U.S. Environmental Protection Agency, Office of Pesticides and Toxic Substances, Washington, DC.

4. Public comments received on the proposed rule.

A public version of this record is available in the TSCA Public Docket Office from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. The TSCA Public Docket Office is located in Rm. NE-G004, 401 M St., SW., Washington, DC.

#### VIII. Regulatory Assessment Requirements

##### A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this rule is not a "major" rule because it does not have an effect on the economy of \$100 million or more. The Agency also anticipates that this rule will not have a significant effect on competition, costs, or prices.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

##### B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 605(b), EPA has determined that this rule will not have a significant impact on a substantial number of small businesses. The section 8(a) PAIR exempts "small" manufacturers and importers (as defined in 40 CFR 712.25) from reporting section 8(a) data on these chemical substances. In a study of respondents to the section 8(d) model rule, EPA found that only 1 of 69 respondents had less than \$100 million in sales. EPA does not expect this amendment of the model rule to affect that distribution of burden within the chemical industry.

##### C. Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by the Office of

Management and Budget (OMB) under the provisions of the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* and have been assigned OMB control numbers 2070-0054 for PAIR reporting and 2070-0004 for TSCA section 8(d) reporting.

Public reporting burden for this collection of information is estimated to average 78 hours for each firm (25 hours per report) for PAIR reporting and 27.5 hours for each firm (5.4 hours per study) for TSCA section 8(d) reporting, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM-223, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA."

#### List of Subjects in 40 CFR Parts 712 and 716

Chemicals,  
Environmental protection,  
Hazardous substances,  
Health and safety,  
Reporting and recordkeeping requirements.

Dated: February 13, 1989.

Victor J. Kimm,  
Assistant Administrator for Pesticides and Toxic Substances.

Therefore, 40 CFR Parts 712 and 716 are amended as follows:

##### 1. In Part 712:

#### PART 712—[AMENDED]

a. The authority citation for Part 712 continues to read as follows:

Authority: 15 U.S.C. 2607(a).

b. Section 712.30(w) is amended by adding in numerical sequence by CAS No. the following chemicals to read as follows:

#### § 712.30 Chemical lists and reporting periods.

(w) \* \* \*

CAS number	Substance	Effective date	Report- ing date
68-12-2	Dimethyl formamide—Formamide, N,N-dimethyl-	4/13/89	6/13/89
74-83-9	Methyl bromide—Methane, bromo-	4/13/89	6/13/89



CAS number	Substance	Effective date	Reporting date
75-00-3	Chloroethane—Ethane, chloro	4/13/89	6/13/89
75-37-6	1,1-Difluoroethane—Ethane, 1,1-difluoro	4/13/89	6/13/89
75-43-4	Dichloromonoethane—Methane, dichloroethane	4/13/89	6/13/89
75-45-6	Chlorodifluoroethane—Methane, chlorodifluoro	4/13/89	6/13/89
75-52-5	Nitromethane—Methane, nitro	4/13/89	6/13/89
75-68-3	1-Chloro-1,1-difluoroethane—Ethane, 1-chloro-1,1-difluoro	4/13/89	6/13/89
79-00-5	1,1,2-Trichloroethane—Ethane, 1,1,2-trichloro	4/13/89	6/13/89
79-24-3	Nitroethane—Ethane, nitro	4/13/89	6/13/89
88-04-0	p-Chloro-m-xylene—Phenol, 4-chloro-3,5-dimethyl	4/13/89	6/13/89
95-14-7	1,2,3-Benzotriazole—1H-Benzotriazole	4/13/89	6/13/89
100-02-7	p-Nitrophenol—Phenol, 4-nitro	4/13/89	6/13/89
101-84-8	Diphenyl oxide—Benzene, 1,1'-oxybis	4/13/89	6/13/89
102-71-6	Triethanolamine—Ethanol, 2,2',2''-nitrilotris	4/13/89	6/13/89
107-98-2	1-Methoxy-2-propanol—2-Propanol, 1-methoxy	4/13/89	6/13/89
111-42-2	Diethanolamine—Ethanol, 2,2'-iminobis	4/13/89	6/13/89
111-76-2	2-Butoxyethanol—Ethanol, 2-butoxy	4/13/89	6/13/89
111-77-3	Diethylene glycol monomethyl ether—Ethanol, 2-(2-methoxyethoxy)	4/13/89	6/13/89
111-90-0	Diethylene glycol monoethyl ether—Ethanol, 2-(2-ethoxyethoxy)	4/13/89	6/13/89
120-32-1	2-Benzyl-4-chlorophenol—Phenol, 4-chloro-2-(phenylmethyl)	4/13/89	6/13/89
124-16-3	1-Butoxyethoxy-2-propanol—2-Propanol, 1-(2-butoxyethoxy)	4/13/89	6/13/89
131-17-9	Diallyl phthalate—1,2-Benzenedicarboxylic acid, di-2-propenyl ester	4/13/89	6/13/89
142-28-9	1,3-Dichloropropane—Propane, 1,3-dichloro	4/13/89	6/13/89
5131-66-8	1-Butoxy-2-propanol—2-Propanol, 1-butoxy	4/13/89	6/13/89
25168-06-3	Isopropyl phenol—Phenol, (1-methylethyl)	4/13/89	6/13/89
25498-49-1	Tripropylene glycol monomethyl ether—Propanol, 12-(2-methoxymethylethoxy)methylethoxy	4/13/89	6/13/89
29385-43-1	Tolyl triazole—1H-Benzotriazole, methyl	4/13/89	6/13/89
34590-94-8	Dipropylene glycol monomethyl ether—Propanol, (2-methoxymethylethoxy)	4/13/89	6/13/89

## 2. In Part 716:

Authority: 15 U.S.C. 2607(d).

§ 716.120 Substances and listed mixtures to which this subpart applies.

## PART 716—[AMENDED]

b. Part 716 is amended by adding chemical substances to § 716.120(a) in numerical sequence by CAS Number to read as follows:

(a) \* \* \*

a. The authority citation for Part 716 continues to read as follows:

CAS number	Substance	Special exemptions	Effective date	Sunset date
68-12-2	Dimethyl formamide—Formamide, N,N-dimethyl	***	4/13/89	4/13/99
75-37-6	1,1-Difluoroethane—Ethane, 1,1-difluoro	***	4/13/89	4/13/99
75-43-4	Dichloromonoethane—Methane, dichloroethane	***	4/13/89	4/13/99
75-45-6	Chlorodifluoroethane—Methane, chlorodifluoro	***	4/13/89	4/13/99
75-52-5	Nitromethane—Methane, nitro	***	4/13/89	4/13/99
75-68-3	1-Chloro-1,1-difluoroethane—Ethane, 1-chloro-1,1-difluoro	***	4/13/89	4/13/99
76-13-1	1,1,2-Trichloro-1,2,2-trifluoroethane—Ethane, 1,1,2-trichloro-1,2,2-trifluoro	***	4/13/89	4/13/99
79-24-3	Nitroethane—Ethane, nitro	***	4/13/89	4/13/99
80-62-6	Methyl methacrylate—2-Propenoic acid, 2-methyl-, methyl ester	***	4/13/89	4/13/99
88-04-0	p-Chloro-m-xylene—Phenol, 4-chloro-3,5-dimethyl	***	4/13/89	4/13/99
95-14-7	1,2,3-Benzotriazole—1H-Benzotriazole	***	4/13/89	4/13/99
97-88-1	Butyl methacrylate—2-Propenoic acid, 2-methyl-, butyl ester	***	4/13/89	4/13/99
100-02-7	p-Nitrophenol—Phenol, 4-nitro	***	4/13/89	4/13/99
101-84-8	Diphenyl oxide—Benzene, 1,1'-oxybis	***	4/13/89	4/13/99
102-71-6	Triethanolamine—Ethanol, 2,2',2''-nitrilotris	***	4/13/89	4/13/99
107-98-2	1-Methoxy-2-propanol—2-Propanol, 1-methoxy	***	4/13/89	4/13/99
111-42-2	Diethanolamine—Ethanol, 2,2'-iminobis	***	4/13/89	4/13/99
111-76-2	2-Butoxyethanol—Ethanol, 2-butoxy	***	4/13/89	4/13/99
111-77-3	Diethylene glycol monomethyl ether—Ethanol, 2-(2-methoxyethoxy)	***	4/13/89	4/13/99
111-90-0	Diethylene glycol monoethyl ether—Ethanol, 2-(2-ethoxyethoxy)	***	4/13/89	4/13/99



CAS number	Substance	Special exemptions	Effective date	Sunset date
120-32-1	2-Benzyl-4-chlorophenol—Phenol, 4-chloro-2-chlorophenol(phenyl methyl).....	...	4/13/89	4/13/99
124-16-3	1-Butoxyethoxy-2-propanol—2-Propanol, 1-(2-butoxyethoxy).....	...	4/13/89	4/13/99
131-17-9	Diallyl phthalate—1,2-Benzenedicarboxylic acid, di-2-propenyl ester.....	...	4/13/89	4/13/99
140-88-5	Ethyl acrylate—2-Propenoic acid, ethyl ester.....	...	4/13/89	4/13/99
5131-66-8	1-Butoxy-2-propanol—2-Propanol, 1-butoxy.....	...	4/13/89	4/13/99
25168-08-3	Isopropyl phenol—Phenol, (1-methylethyl).....	...	4/13/89	4/13/99
25498-49-1	Tripropylene glycol monomethyl ether—Propanol, [2-(2-methoxy methylethoxy)methylethoxy].....	...	4/13/89	4/13/99
29385-43-1	Tolyl triazole—1H-Benzotriazole, methyl.....	...	4/13/89	4/13/99
34590-94-8	Dipropylene glycol monomethyl ether—Propanol, (2-methoxymethylethoxy).....	...	4/13/89	4/13/99

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BILLING CODE 5590-50-M



Account Name	Balance	Debit	Credit	Balance
1. Cash	100.00			100.00
2. U.S. Treasury	100.00			100.00
3. U.S. Bonds	100.00			100.00
4. U.S. Notes	100.00			100.00
5. U.S. Coins	100.00			100.00
6. U.S. Gold	100.00			100.00
7. U.S. Silver	100.00			100.00
8. U.S. Copper	100.00			100.00
9. U.S. Nickel	100.00			100.00
10. U.S. Zinc	100.00			100.00
11. U.S. Lead	100.00			100.00
12. U.S. Tin	100.00			100.00
13. U.S. Iron	100.00			100.00
14. U.S. Steel	100.00			100.00
15. U.S. Coal	100.00			100.00
16. U.S. Oil	100.00			100.00
17. U.S. Gas	100.00			100.00
18. U.S. Electricity	100.00			100.00
19. U.S. Water	100.00			100.00
20. U.S. Steam	100.00			100.00
21. U.S. Horse Power	100.00			100.00
22. U.S. Motor Power	100.00			100.00
23. U.S. Wind Power	100.00			100.00
24. U.S. Solar Power	100.00			100.00
25. U.S. Geothermal Power	100.00			100.00
26. U.S. Nuclear Power	100.00			100.00
27. U.S. Atomic Power	100.00			100.00
28. U.S. Fusion Power	100.00			100.00
29. U.S. Fission Power	100.00			100.00
30. U.S. Hydro Power	100.00			100.00
31. U.S. Tidal Power	100.00			100.00
32. U.S. Wave Power	100.00			100.00
33. U.S. Ocean Power	100.00			100.00
34. U.S. Wind Power	100.00			100.00
35. U.S. Solar Power	100.00			100.00
36. U.S. Geothermal Power	100.00			100.00
37. U.S. Nuclear Power	100.00			100.00
38. U.S. Atomic Power	100.00			100.00
39. U.S. Fusion Power	100.00			100.00
40. U.S. Fission Power	100.00			100.00
41. U.S. Hydro Power	100.00			100.00
42. U.S. Tidal Power	100.00			100.00
43. U.S. Wave Power	100.00			100.00
44. U.S. Ocean Power	100.00			100.00
45. U.S. Wind Power	100.00			100.00
46. U.S. Solar Power	100.00			100.00
47. U.S. Geothermal Power	100.00			100.00
48. U.S. Nuclear Power	100.00			100.00
49. U.S. Atomic Power	100.00			100.00
50. U.S. Fusion Power	100.00			100.00
51. U.S. Fission Power	100.00			100.00
52. U.S. Hydro Power	100.00			100.00
53. U.S. Tidal Power	100.00			100.00
54. U.S. Wave Power	100.00			100.00
55. U.S. Ocean Power	100.00			100.00
56. U.S. Wind Power	100.00			100.00
57. U.S. Solar Power	100.00			100.00
58. U.S. Geothermal Power	100.00			100.00
59. U.S. Nuclear Power	100.00			100.00
60. U.S. Atomic Power	100.00			100.00
61. U.S. Fusion Power	100.00			100.00
62. U.S. Fission Power	100.00			100.00
63. U.S. Hydro Power	100.00			100.00
64. U.S. Tidal Power	100.00			100.00
65. U.S. Wave Power	100.00			100.00
66. U.S. Ocean Power	100.00			100.00
67. U.S. Wind Power	100.00			100.00
68. U.S. Solar Power	100.00			100.00
69. U.S. Geothermal Power	100.00			100.00
70. U.S. Nuclear Power	100.00			100.00
71. U.S. Atomic Power	100.00			100.00
72. U.S. Fusion Power	100.00			100.00
73. U.S. Fission Power	100.00			100.00
74. U.S. Hydro Power	100.00			100.00
75. U.S. Tidal Power	100.00			100.00
76. U.S. Wave Power	100.00			100.00
77. U.S. Ocean Power	100.00			100.00
78. U.S. Wind Power	100.00			100.00
79. U.S. Solar Power	100.00			100.00
80. U.S. Geothermal Power	100.00			100.00
81. U.S. Nuclear Power	100.00			100.00
82. U.S. Atomic Power	100.00			100.00
83. U.S. Fusion Power	100.00			100.00
84. U.S. Fission Power	100.00			100.00
85. U.S. Hydro Power	100.00			100.00
86. U.S. Tidal Power	100.00			100.00
87. U.S. Wave Power	100.00			100.00
88. U.S. Ocean Power	100.00			100.00
89. U.S. Wind Power	100.00			100.00
90. U.S. Solar Power	100.00			100.00
91. U.S. Geothermal Power	100.00			100.00
92. U.S. Nuclear Power	100.00			100.00
93. U.S. Atomic Power	100.00			100.00
94. U.S. Fusion Power	100.00			100.00
95. U.S. Fission Power	100.00			100.00
96. U.S. Hydro Power	100.00			100.00
97. U.S. Tidal Power	100.00			100.00
98. U.S. Wave Power	100.00			100.00
99. U.S. Ocean Power	100.00			100.00
100. U.S. Wind Power	100.00			100.00

The following is a list of the accounts maintained by the Federal Reserve Bank of New York, New York, for the year 1914. The accounts are classified into two main groups: (1) Accounts maintained by the Federal Reserve Bank of New York, New York, and (2) Accounts maintained by the Federal Reserve Bank of New York, New York, for the benefit of the Federal Reserve Bank of New York, New York.

The accounts maintained by the Federal Reserve Bank of New York, New York, are as follows:

- 1. Cash
- 2. U.S. Treasury
- 3. U.S. Bonds
- 4. U.S. Notes
- 5. U.S. Coins
- 6. U.S. Gold
- 7. U.S. Silver
- 8. U.S. Copper
- 9. U.S. Nickel
- 10. U.S. Zinc
- 11. U.S. Lead
- 12. U.S. Tin
- 13. U.S. Iron
- 14. U.S. Steel
- 15. U.S. Coal
- 16. U.S. Oil
- 17. U.S. Gas
- 18. U.S. Electricity
- 19. U.S. Water
- 20. U.S. Steam
- 21. U.S. Horse Power
- 22. U.S. Motor Power
- 23. U.S. Wind Power
- 24. U.S. Solar Power
- 25. U.S. Geothermal Power
- 26. U.S. Nuclear Power
- 27. U.S. Atomic Power
- 28. U.S. Fusion Power
- 29. U.S. Fission Power
- 30. U.S. Hydro Power
- 31. U.S. Tidal Power
- 32. U.S. Wave Power
- 33. U.S. Ocean Power
- 34. U.S. Wind Power
- 35. U.S. Solar Power
- 36. U.S. Geothermal Power
- 37. U.S. Nuclear Power
- 38. U.S. Atomic Power
- 39. U.S. Fusion Power
- 40. U.S. Fission Power
- 41. U.S. Hydro Power
- 42. U.S. Tidal Power
- 43. U.S. Wave Power
- 44. U.S. Ocean Power
- 45. U.S. Wind Power
- 46. U.S. Solar Power
- 47. U.S. Geothermal Power
- 48. U.S. Nuclear Power
- 49. U.S. Atomic Power
- 50. U.S. Fusion Power
- 51. U.S. Fission Power
- 52. U.S. Hydro Power
- 53. U.S. Tidal Power
- 54. U.S. Wave Power
- 55. U.S. Ocean Power
- 56. U.S. Wind Power
- 57. U.S. Solar Power
- 58. U.S. Geothermal Power
- 59. U.S. Nuclear Power
- 60. U.S. Atomic Power
- 61. U.S. Fusion Power
- 62. U.S. Fission Power
- 63. U.S. Hydro Power
- 64. U.S. Tidal Power
- 65. U.S. Wave Power
- 66. U.S. Ocean Power
- 67. U.S. Wind Power
- 68. U.S. Solar Power
- 69. U.S. Geothermal Power
- 70. U.S. Nuclear Power
- 71. U.S. Atomic Power
- 72. U.S. Fusion Power
- 73. U.S. Fission Power
- 74. U.S. Hydro Power
- 75. U.S. Tidal Power
- 76. U.S. Wave Power
- 77. U.S. Ocean Power
- 78. U.S. Wind Power
- 79. U.S. Solar Power
- 80. U.S. Geothermal Power
- 81. U.S. Nuclear Power
- 82. U.S. Atomic Power
- 83. U.S. Fusion Power
- 84. U.S. Fission Power
- 85. U.S. Hydro Power
- 86. U.S. Tidal Power
- 87. U.S. Wave Power
- 88. U.S. Ocean Power
- 89. U.S. Wind Power
- 90. U.S. Solar Power
- 91. U.S. Geothermal Power
- 92. U.S. Nuclear Power
- 93. U.S. Atomic Power
- 94. U.S. Fusion Power
- 95. U.S. Fission Power
- 96. U.S. Hydro Power
- 97. U.S. Tidal Power
- 98. U.S. Wave Power
- 99. U.S. Ocean Power
- 100. U.S. Wind Power

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- 1. Cash
- 2. U.S. Treasury
- 3. U.S. Bonds
- 4. U.S. Notes
- 5. U.S. Coins
- 6. U.S. Gold
- 7. U.S. Silver
- 8. U.S. Copper
- 9. U.S. Nickel
- 10. U.S. Zinc
- 11. U.S. Lead
- 12. U.S. Tin
- 13. U.S. Iron
- 14. U.S. Steel
- 15. U.S. Coal
- 16. U.S. Oil
- 17. U.S. Gas
- 18. U.S. Electricity
- 19. U.S. Water
- 20. U.S. Steam
- 21. U.S. Horse Power
- 22. U.S. Motor Power
- 23. U.S. Wind Power
- 24. U.S. Solar Power
- 25. U.S. Geothermal Power
- 26. U.S. Nuclear Power
- 27. U.S. Atomic Power
- 28. U.S. Fusion Power
- 29. U.S. Fission Power
- 30. U.S. Hydro Power
- 31. U.S. Tidal Power
- 32. U.S. Wave Power
- 33. U.S. Ocean Power
- 34. U.S. Wind Power
- 35. U.S. Solar Power
- 36. U.S. Geothermal Power
- 37. U.S. Nuclear Power
- 38. U.S. Atomic Power
- 39. U.S. Fusion Power
- 40. U.S. Fission Power
- 41. U.S. Hydro Power
- 42. U.S. Tidal Power
- 43. U.S. Wave Power
- 44. U.S. Ocean Power
- 45. U.S. Wind Power
- 46. U.S. Solar Power
- 47. U.S. Geothermal Power
- 48. U.S. Nuclear Power
- 49. U.S. Atomic Power
- 50. U.S. Fusion Power
- 51. U.S. Fission Power
- 52. U.S. Hydro Power
- 53. U.S. Tidal Power
- 54. U.S. Wave Power
- 55. U.S. Ocean Power
- 56. U.S. Wind Power
- 57. U.S. Solar Power
- 58. U.S. Geothermal Power
- 59. U.S. Nuclear Power
- 60. U.S. Atomic Power
- 61. U.S. Fusion Power
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- 63. U.S. Hydro Power
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- 65. U.S. Wave Power
- 66. U.S. Ocean Power
- 67. U.S. Wind Power
- 68. U.S. Solar Power
- 69. U.S. Geothermal Power
- 70. U.S. Nuclear Power
- 71. U.S. Atomic Power
- 72. U.S. Fusion Power
- 73. U.S. Fission Power
- 74. U.S. Hydro Power
- 75. U.S. Tidal Power
- 76. U.S. Wave Power
- 77. U.S. Ocean Power
- 78. U.S. Wind Power
- 79. U.S. Solar Power
- 80. U.S. Geothermal Power
- 81. U.S. Nuclear Power
- 82. U.S. Atomic Power
- 83. U.S. Fusion Power
- 84. U.S. Fission Power
- 85. U.S. Hydro Power
- 86. U.S. Tidal Power
- 87. U.S. Wave Power
- 88. U.S. Ocean Power
- 89. U.S. Wind Power
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- 92. U.S. Nuclear Power
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- 94. U.S. Fusion Power
- 95. U.S. Fission Power
- 96. U.S. Hydro Power
- 97. U.S. Tidal Power
- 98. U.S. Wave Power
- 99. U.S. Ocean Power
- 100. U.S. Wind Power



# **Federal Register**

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**Tuesday  
February 28, 1989**

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## **Part IV**

### **Department of Defense General Services Administration National Aeronautics and Space Administration**

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**48 CFR Parts 42 and 52  
Federal Acquisition Regulation (FAR);  
Hazardous Materials; Proposed Rule**



## DEPARTMENT OF DEFENSE

GENERAL SERVICES  
ADMINISTRATIONNATIONAL AERONAUTICS AND  
SPACE ADMINISTRATION

## 48 CFR Parts 42 and 52

Federal Acquisition Regulation (FAR);  
Hazardous Materials

**AGENCIES:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Proposed rule.

**SUMMARY:** The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering a change to FAR 42.302(a)(39) and the clause at 52.223-3 to remove the implication that Contract Administration Services were responsible for administering statutory and regulatory requirements for hazardous materials.

**DATE:** Comments should be submitted to the FAR Secretariat at the address shown below on or before May 1, 1989, to be considered in the formulation of a final rule.

**ADDRESS:** Interested parties should submit written comments to:  
General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., Room 4041, Washington, DC 20405.

Please cite FAR Case 89-15 in all correspondence related to this issue.

**FOR FURTHER INFORMATION CONTACT:** Margaret A. Willis, FAR Secretariat,

Room 4041, GS Building, Washington, DC 20405, (202) 523-4755.

## SUPPLEMENTARY INFORMATION:

## A. Regulatory Flexibility Act

The proposed rule does not appear to have a significant impact on a substantial number of small entities and analysis of the proposed revision indicates that it is not a "significant revision" as defined in FAR 1.501, i.e., it does not alter the substantive meaning of any coverage in the FAR having a significant cost or administrative impact on contractors or offerors, or have significant effect beyond the internal operating procedures of the issuing agencies.

Accordingly, and consistent with section 1212 of Pub. L. 98-525 and section 302 of Pub. L. 98-577 pertaining to publication of proposed regulations (as implemented in FAR Subpart 1.5, Agency and Public Participation) solicitation of agency and public views on the proposed revision is not required. Since such solicitation is not required, the Regulatory Flexibility Act (5 U.S.C. 601, et seq.) does not apply.

## B. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes do not impose recordkeeping information collection requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, et seq.

## List of Subjects in 48 CFR Parts 42 and 52

Government procurement.

Dated: February 14, 1989.

Harry S. Rosinski,  
Acting Director, Office of Federal Acquisition  
and Regulatory Policy.

Therefore, it is proposed that 48 CFR Parts 42 and 52 be amended as set forth below:

1. The authority citation for 48 CFR Parts 42 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

PART 42—CONTRACT  
ADMINISTRATION

2. Section 42.302 is amended by revising paragraph (a)(39) to read as follows:

## 42.302 Contract administration functions

(a) \* \* \*

(39) Ensure contractor compliance with contractual safety requirements.

\* \* \* \* \*

PART 52—SOLICITATION  
PROVISIONS AND CONTRACT  
CLAUSES

3. Section 52.223-3 is amended by revising paragraph (d) of the clause to read as follows:

52.223-3 Hazardous Material Identification  
and Material Safety Data.

\* \* \* \* \*

(d) Nothing contained in this clause shall relieve the Contractor from complying with applicable Federal, state, and local laws, codes, ordinances, and regulations (including the obtaining of licenses and permits) in connection with hazardous material.

\* \* \* \* \*

[FR Doc. 89-4490 Filed 2-27-89; 8:45 am]

BILLING CODE 6920-JC-M



# Official Register

Tuesday  
February 28, 1989

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## Part V

### Department of Health and Human Services

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#### Food and Drug Administration

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##### 21 CFR Part 341

Cold, Cough, Allergy, Bronchodilator, and  
Antiasthmatic Drug Products for Over-  
the-Counter Human Use; Expectorant  
Drug Products for Over-the-Counter  
Human Use; Final Monograph; Final Rule



# DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Food and Drug Administration

### 21 CFR Part 341

[Docket No. 76N-052E]

#### Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products for Over-the-Counter Human Use; Expectorant Drug Products for Over-the-Counter Human Use; Final Monograph;

AGENCY: Food and Drug Administration.

ACTION: Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is issuing a final rule in the form of a final monograph establishing conditions under which over-the-counter (OTC) expectorant drug products are generally recognized as safe and effective and not misbranded. (Expectorants are drugs taken orally to promote or facilitate the removal of secretions from the respiratory airways.) FDA is issuing this final rule after considering public comments on the agency's proposed regulation, which was issued in the form of a tentative final monograph, and all new data and information on expectorant drug products that have come to the agency's attention. This final monograph is part of the ongoing review of OTC drug products conducted by FDA.

**EFFECTIVE DATE:** February 28, 1990.

**FOR FURTHER INFORMATION CONTACT:** William E. Gilbertson, Center for Drug Evaluation and Research (HFD-210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8000.

**SUPPLEMENTARY INFORMATION:** In the Federal Register of September 9, 1976 (41 FR 38312), FDA published, under § 330.10(a)(6) (21 CFR 330.10(a)(6)), an advance notice of proposed rulemaking to establish a monograph for OTC cold, cough, allergy, bronchodilator, and antiasthmatic drug products, together with the recommendations of the Advisory Review Panel on OTC Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products (Cough-Cold Panel), which was the advisory review panel responsible for evaluating data on the active ingredients in these drug classes. Interested persons were invited to submit comments by December 8, 1976. Reply comments in response to comments filed in the initial comment period could be submitted by January 7, 1977.

In accordance with § 330.10(a)(10), the data and information considered by the Panel were put on display in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-82, 5600 Fishers Lane, Rockville, MD 20857, after deletion of a small amount of trade secret information.

The agency's proposed regulation, in the form of a tentative final monograph, for OTC cold, cough, allergy, bronchodilator, and antiasthmatic drug products is being issued in the following segments: anticholinergics and expectorants, bronchodilators, antitussives, nasal decongestants, antihistamines, and combinations. The first segment, the tentative final monograph for anticholinergic drug products and expectorant drug products, was published in the Federal Register of July 9, 1982 (47 FR 30002). Interested persons were invited to file by September 7, 1982, written comments, objections, or requests for oral hearing before the Commissioner of Food and Drugs regarding the proposal. Interested persons were invited to file comments on the agency's economic impact determination by November 8, 1982. New data could have been submitted until July 11, 1983, and comments on the new data until September 9, 1983. Final agency action occurs with the publication of this final monograph, which is a final rule establishing a monograph for OTC expectorant drug products.

In a notice published in the Federal Register of August 27, 1982 (47 FR 37934), the agency advised that it had extended the period for comments, objections, or requests for oral hearing for OTC anticholinergic drug products and expectorant drug products. The notice allowed the period for comments, objections, or requests for oral hearing to be extended to November 8, 1982.

The agency's final rule, in the form of a final monograph, for OTC cold, cough, allergy, bronchodilator, and antiasthmatic drug products is also being published in segments. Final agency action on expectorant drug products occurs with the publication of this document, which establishes §§ 341.3(d), 341.18, and 341.78 and adds professional labeling information in § 341.90(d) for OTC expectorant drug products in Part 341 (21 CFR Part 341). Combination drug products containing expectorant drugs are addressed in the tentative final monograph on combination cough-cold drug products which was published in the Federal Register of August 12, 1988 (53 FR 30522). The agency's final action on OTC anticholinergic drug products was

published in the Federal Register of November 8, 1985 (50 FR 46582).

In the preamble to the agency's proposed rule on OTC expectorant drug products (47 FR 30002), the agency stated that no expectorant active ingredients had been found to be generally recognized as safe and effective and not misbranded, but that Category I labeling was being proposed in that document in the event that data were submitted that resulted in the upgrading of any ingredient to monograph status in the final rule. In this final rule, one expectorant ingredient, guaifenesin, is included in the monograph.

The Advisory Review Panel on OTC Oral Cavity Drug Products (Oral Cavity Panel) reviewed safety and effectiveness data on four expectorant ingredients (potassium iodide, ammonium chloride, tolu balsam, and horehound), but did not classify any expectorants in Category I in its report published in the Federal Register of May 25, 1982 (47 FR 22920). In the tentative final monograph for OTC oral health care anesthetic/analgesic, astringent, debriding agent/oral wound cleanser, and demulcent drug products, published in the Federal Register of January 27, 1988 (53 FR 2436 at 2448), the agency referred the data on these four expectorant ingredients to the rulemaking for OTC expectorant drug products because the ingredients had been reviewed earlier and more extensively by the Cough-Cold Panel and because no new data were submitted to the agency in support of the effectiveness of any expectorant for oral health care use. In this final rule, based on a lack of safety and/or effectiveness data, the agency concludes that the four expectorant ingredients (potassium iodide, ammonium chloride, tolu balsam, and horehound) considered by the Oral Cavity Panel are nonmonograph ingredients.

The OTC drug procedural regulations (21 CFR 330.10) now provide that any testing necessary to resolve the safety or effectiveness issues that formerly resulted in a Category III classification, and submission to FDA of the results of that testing or any other data, must be done during the OTC drug rulemaking process before the establishment of a final monograph. Accordingly, FDA is no longer using the terms "Category I" (generally recognized as safe and effective and not misbranded), "Category II" (not generally recognized as safe and effective or misbranded), and "Category III" (available data are insufficient to classify as safe and effective, and further testing is required)



at the final monograph stage, but is using instead the terms "monograph conditions" (old Category I) and "nonmonograph conditions" (old Categories II and III).

As discussed in the proposed regulation for OTC expectorant drug products (47 FR 30003), the agency advises that the conditions under which the drug products that are subject to this monograph will be generally recognized as safe and effective and not misbranded (monograph conditions) will be effective 12 months after the date of publication in the *Federal Register*. Therefore, on or after February 28, 1990, no OTC drug product that is subject to the monograph and that contains a nonmonograph condition, i.e., a condition that would cause the drug to be not generally recognized as safe and effective or to be misbranded, may be initially introduced or initially delivered for introduction into interstate commerce unless it is the subject of an approved application. Any OTC expectorant drug product that is subject to the monograph, whether formulated as a single ingredient or a combination drug product, must meet the requirements of this final rule upon its effective date. Further, any OTC drug product subject to this monograph that is repackaged or relabeled after the effective date of the monograph must be in compliance with the monograph regardless of the date the product was initially introduced or initially delivered for introduction into interstate commerce. Manufacturers are encouraged to comply voluntarily with the monograph at the earliest possible date.

In response to the proposed rule on OTC expectorant drug products, five drug manufacturers, two drug manufacturer associations, one health professional, and one health care professional society submitted comments on expectorants. There was one request for a hearing. Copies of the comments and the hearing request received are on public display in the Dockets Management Branch. Any additional information that has come to the agency's attention since publication of the proposed rule is also on public display in the Dockets Management Branch.

In proceeding with this final monograph, the agency has considered all comments, new data, the request for an oral hearing, and the changes in the procedural regulations. A summary of the comments and FDA's responses to them follows. A discussion of the new data and the request for an oral hearing are contained in those responses.

All "OTC Volumes" cited throughout this document refer to the submissions made by interested persons pursuant to the call-for-data notice published in the *Federal Register* of August 9, 1972 (37 FR 16029) or to additional information that has come to the agency's attention since publication of the notice of proposed rulemaking. The volumes are on public display in the Dockets Management Branch (address above).

### I. The Agency's Conclusions on the Comments

#### A. General Comments on Expectorant Drug Products

1. One comment contended that OTC drug monographs are interpretive, as opposed to substantive, regulations. The comment referred to statements on this issue submitted earlier to other OTC drug rulemaking proceedings.

The agency addressed this issue in paragraphs 85 through 91 of the preamble to the procedures for classification of OTC drug products, published in the *Federal Register* of May 11, 1972 (37 FR 9464) and in paragraph 3 of the preamble to the tentative final monograph for antacid drug products, published in the *Federal Register* of November 12, 1973 (38 FR 31260). FDA reaffirms the conclusions stated in those documents. Court decisions have confirmed the agency's authority to issue substantive regulations by rulemaking. (See, e.g., *National Nutritional Foods Association v. Weinberger*, 512 F. 2d 688, 696-98 (2d Cir. 1975) and *National Association of Pharmaceutical Manufacturers v. FDA*, 487 F. Supp. 412 (S.D.N.Y. 1980), *aff'd*, 637 F.2d 887 (2d Cir. 1981).)

2. One comment disagreed with the agency's statement that "no expectorant active ingredients have been determined to be generally recognized as safe and effective and not misbranded" (47 FR 30002). Arguing that the evidence to support the safety and effectiveness of these ingredients may not be conclusive, the comment stated that most of these drugs are not unsafe when used as directed by the manufacturers. The drugs may be effective in a "significant proportion of patients," the comment maintained, and it would be desirable to examine the physiologic and pharmacologic effects of these drugs to determine whether larger than recommended doses do have measurable beneficial or harmful effects in patients who claim that "standard" doses produce subjective benefits. The comment added that there is evidence that larger than recommended doses of expectorants cause nausea or emesis, and there is a pharmacologic basis for

believing that subemetic doses can improve respiratory tract mucus clearance.

The comment pointed out that the Panel recognized that the available data showed conflicting results regarding the effectiveness of guaifenesin and that the experts disagreed on the appropriate dosage for OTC use of this ingredient (47 FR 30006). According to the comment, if tests on guaifenesin show that the ingredient has emetic quality, it could be assumed that other commonly used expectorants may have similar qualities because the emetic quality is common to most oral expectorants. Because there is an ongoing test on guaifenesin, the comment emphasized the need to avoid a final "commitment" regarding the effectiveness of oral expectorants.

The agency's statement that "no expectorant active ingredients have been determined to be generally recognized as safe and effective and not misbranded" was a tentative conclusion based on a lack of adequate studies at that time to support the use of these drugs for their claimed effects. The agency agrees with the Panel that although many of the expectorants on the market with long usage are generally safe, most lack evidence of effectiveness (41 FR 38355). It is believed that many of the drugs that are claimed to have expectorant activity act reflexly by irritating the gastric mucosa, which in turn stimulates the respiratory tract secretions (Ref. 1). Saline expectorants, ammonium salts, citrates, iodides, antimony and potassium tartrate, ipecac expectorants, creosotes, and guaiacols are included in this group of drugs. Some experimental evidence suggests that these substances do increase respiratory tract secretions, but the data are sparse and unconvincing. Except for data on guaifenesin, no new test data were submitted on any of these ingredients following publication of the tentative final monograph. Thus, at present, adequate data do not exist to support general recognition of any of these other OTC ingredients as effective expectorants.

Guaifenesin was classified by the Panel in Category III for further study as an expectorant active ingredient. After reviewing new effectiveness data, FDA determined that the data supported the effectiveness of guaifenesin as an expectorant; therefore, guaifenesin is included in this final monograph as an expectorant (see comment 5 below).

Manufacturers may test nonmonograph expectorant ingredients to determine whether the Panel's recommended doses or even larger



doses are effective. If the larger than recommended doses are not within a known safety range, additional safety studies will be needed. Any clinical testing of nonmonograph ingredients should be conducted under the provisions of a Notice of Claimed Investigational Exemption for a New Drug (IND) (Form FDA-1571) (OMB Approval No. 0910-0014), as set forth in 31 CFR 312.1.

#### Reference

(1) Swinyard, E.A., "Respiratory Drugs," in "Remington's Pharmaceutical Sciences," 17th Ed., Mack Publishing Co., Easton, PA, p. 867, 1985.

3. In response to the agency's request for definitions of the term "expectorant" in lay language (47 FR 30004), one comment suggested that "expectorant" be defined as "a drug taken by mouth which loosens abnormal secretions in the lung and thereby enables sputum to be coughed up more easily." The comment added that, in defining an expectorant drug, it should be recognized that expectorant drugs are those which are usually given by mouth whereas those that are taken by inhalation may be "mucolytics," "surfactants," and "bronchorrheics." It pointed out that in other countries, oral expectorant drugs include "bronchomucotropics" and "mucoregulators," and some "mucolytics" may be given by mouth as well as by inhalation.

By inviting public comment on definitions for "expectorant," the agency acknowledged the difficulty in defining this word in lay terms. However, the agency concludes that the definition offered by the comment for the term "expectorant" is not clearer or more appropriate than that proposed by the agency in § 341.3 (47 FR 30009), although one of the comment's suggestions is being adopted.

At this time, only an oral expectorant (guaifenesin) is included in the monograph. Therefore, the agency agrees that it is appropriate to include in the definition that expectorants are for oral use. The comment's suggested phrase "a drug taken by mouth" has been paraphrased to read "a drug taken orally." Since no expectorants for inhalation use are included in the monograph, it is not necessary to separate expectorant drugs into "mucolytics," "surfactants," and "bronchorrheics" as suggested by the comment. The phrase "abnormal secretions in the lung" may be misleading because other areas of the respiratory tract, in addition to the lungs, may also be the site of mucus secretions. The use of the word

"abnormal" might also unduly alarm consumers. Therefore, § 341.3 of this final monograph contains the following definition of expectorant: "a drug taken orally to promote or facilitate the removal of secretions from the respiratory airways."

#### B. Comments on Specific OTC Expectorant Active Ingredients

4. One comment stated that it is not clear why beechwood creosote is classified as an antitussive and a nasal decongestant because current evidence suggests that it acts only as an expectorant. The comment did not submit any additional information.

The comment's statement was in reference to the agency's discussion at 47 FR 30006 that beechwood creosote was classified in Category III by the Panel as an expectorant, antitussive, and nasal decongestant. The Panel reviewed several submissions on combination products containing beechwood creosote, for which nasal decongestant and cough relief claims were made (Ref. 1). The Panel also reviewed one reference that reported some increases of respiratory tract fluid in animals given high doses of beechwood creosote, indicating a possible usefulness as an expectorant (Ref. 2). Although beechwood creosote was found safe for antitussive, nasal decongestant, and expectorant use, the Panel found the data insufficient to demonstrate effectiveness for any of these uses. Accordingly, the Panel placed beechwood creosote in Category III for antitussive, nasal decongestant, and expectorant use and recommended additional studies to upgrade the ingredient to Category I.

In the tentative final monographs on OTC antitussive drug products (48 FR 48576 at 48590) and nasal decongestant drug products (50 FR 2220 at 2235), the agency agreed with the Panel's Category III classification of beechwood creosote. No new data have been submitted to the agency to demonstrate the effectiveness of beechwood creosote as an expectorant; therefore, the ingredient is not included in this final monograph for OTC expectorant drug products.

#### References

- (1) OTC Volumes 040208, 040235, and 040289.
- (2) Stevens, M. E., et al., "On the Expectorant Action of Creosote and the Guaiacols," *Canadian Medical Association Journal*, 48:124-127, 1943.

5. One comment submitted a study to support the reclassification of guaifenesin as an expectorant from Category III to Category I (Ref. 1). The comment requested an oral hearing with

respect to the omission of guaifenesin as a Category I expectorant in the tentative final monograph on grounds that the data submitted and the drug's record of safe and effective use for over 50 years establish guaifenesin as a generally recognized safe and effective expectorant. The comment also requested an oral hearing on the ground that the record is devoid of any evidence which would support a finding that guaifenesin containing products labeled for use as an expectorant are misbranded.

In the tentative final monograph for OTC expectorant drug products (47 FR 30002 at 30005), the agency tentatively adopted the Panel's Category III classification of guaifenesin, because of insufficient effectiveness data, and stated that one additional well-designed, double-blind study in which subjective evaluations are correlated with objective measurements would be needed to upgrade guaifenesin from Category III to Category I. A study was submitted to satisfy this requirement.

The agency has reviewed the study and concludes that the study and the data previously evaluated by the Panel are adequate to support the reclassification of guaifenesin as an expectorant from Category III to Category I. This randomized, double-blind, placebo-controlled study was conducted in a domiciled population of 40 patients with chronic bronchitis accompanied by productive cough. The purpose of the study was to equate subjective improvement and evaluations of difficulty in raising sputum with objective measurements of expectorant action, i.e., an increase in sputum volume and a decrease in sputum viscosity. The results showed that over the first 4 to 6 days there was an initial increase in the volume of sputum produced by the patients who received guaifenesin, followed by a reduction. The total sputum volume for the 15-day study period was not significantly different between placebo and guaifenesin patients; however, the sputum volume produced by the guaifenesin patients at day 15 was approximately one-third the sputum volume produced by the placebo patients. This was accompanied by changes in the appearance and viscosity of the sputum and an improvement in the subjective assessment of the difficulty in raising sputum. Four patients receiving guaifenesin experienced a complete clearing of sputum production. Placebo patients showed a gradual reduction in sputum volume, but changes in sputum character and subjective assessment



were much less pronounced. No patient in the placebo group had clearing of symptoms or clearing of sputum.

Statistical analysis of the data showed that the mean percentage of total sputum volume expectorated by day 7 was significantly greater for patients taking guaifenesin than placebo (69.3 percent versus 53.7 percent,  $p < 0.001$ ). The mean number of days to expectoration of 75 percent of the total sputum volume was significantly lower on guaifenesin than on placebo (8.40 versus 10.65 days,  $p < 0.001$ ). For sputum viscosity and difficulty of raising sputum, mean values on day 15 and mean total severity scores were significantly lower in the guaifenesin group than in the placebo group ( $p < 0.001$ ). Scatterplots suggested a fairly strong correlation between sputum parameters and subjective symptom evaluations. The agency concludes that the data provide clinical evidence of the expectorant action of guaifenesin. Therefore, guaifenesin is being included as an expectorant ingredient in the final monograph for OTC expectorant drug products.

The study was conducted using a 10-milliliter dose of 190 milligrams (mg) guaifenesin three times a day. Although this dosage is in the lower range of the Panel's recommended dose, the agency believes that, based on all of the data in the administrative record, the Panel's recommended dosage should be used in the final monograph (§ 341.78(d)) as follows: "Adults and children 12 years of age and over: oral dosage is 200 to 400 milligrams every 4 hours not to exceed 2,400 milligrams in 24 hours. Children 6 to under 12 years of age: oral dosage is 100 to 200 milligrams every 4 hours not to exceed 1,200 milligrams in 24 hours. Children 2 to under 6 years of age: oral dosage is 50 to 100 milligrams every 4 hours not to exceed 600 milligrams in 24 hours. Children under 2 years of age: consult a doctor."

The agency's detailed comments on the data are on file in the Dockets Management Branch (address above) (Ref. 2).

Because guaifenesin has been reclassified from Category III to monograph status, the agency concludes that the comment's request for a hearing is moot.

#### References

(1) Comment No. LET077, Docket No. 76N-052C, Dockets Management Branch.

(2) Letter from W.E. Gilbertson, FDA, to R. E. Keenan, A. H. Robins Co., coded ANS002, Docket No. 76N-052C, Dockets Management Branch.

6. Three comments requested that the indications for expectorants

(guaifenesin) be expanded to include a cough reduction claim. One comment stated that expectorants help ease cough by relieving the bronchial passageways of bothersome mucus, by relieving irritated membranes in the respiratory passageways, and by stimulating the flow of respiratory tract secretions, which allows ciliary motion and coughing to move the loosened material through the pharynx more easily. The comment added that recognition of these facts is well-documented and cited the Panel's report (41 FR 38355), several published and unpublished studies (Refs. 1 through 6), and other standard reference textbooks (Refs. 7 and 8) in support of its statements.

Another comment stated that expectorants should specifically be indicated for relief of a dry, nonproductive cough because these terms are more meaningful to consumers. The comment explained that consumers will be better able to identify that they need an expectorant if terms such as "dry, hacking or irritating cough," or "upper chest cough" are used in the labeling. The third comment stated that cough relief is generally recognized as an end benefit of the use of an expectorant and agreed with and cited most of the information that was discussed by the first comment (Refs. 1 through 5, 9, and 10). In addition, this comment submitted a new study on the effect of guaifenesin on cough induced by citric acid aerosol challenge (Ref. 11). The comment requested that the phrase "to help relieve cough" be added at the end of each of the indications for use provided under (1) and (2) of proposed § 341.78(b) of the tentative final monograph for expectorant drug products.

The agency has reviewed the submitted data and concludes that the data are insufficient to support a specific cough reduction (antitussive) claim for guaifenesin (Refs. 1 through 11). Connell et al. (Ref. 2) studied the effect of guaifenesin in 20 patients with cough associated with acute bronchitis, bronchitis with asthma, and chronic pulmonary fibrosis, and in 12 patients with chronic pulmonary tuberculosis. A few patients reported no subjective improvement, but the majority of patients noted that expectoration was easier and freer, and that useless, irritating cough was diminished, with the most striking results in patients with acute bronchitis with dry, irritating cough. The agency does not consider this uncontrolled study adequate to demonstrate that guaifenesin reduces cough. Few details of the study were provided, and all evaluations were subjective and undocumented.

In phase I of their study, Stevens et al. (Ref. 3) studied the effect of guaifenesin on the respiratory tract fluid of cats and rabbits; in phase II they compared the antitussive effect of guaifenesin in tablet form with placebo tablets in humans. The patient population consisted of medical students who were asked to record as accurately as possible the number of coughs per day whenever the student had a cold. The investigators concluded that guaifenesin had a sedative effect upon cough, probably, in view of the phase I animal experiments, due to an increased output of respiratory tract fluid. The agency finds that this study was not well-controlled, is sparsely detailed, and lacks objective measurement of cough.

Hayes et al. (Ref. 4) conducted a two-phase study on the effectiveness of guaifenesin as an expectorant. Each phase was open labeled and involved 50 subjects with stable cough due to chronic disease (pulmonary tuberculosis, bronchiectasis, or bronchitis). The effect of the drug on sputum tenaciousness, frequency of cough, and overall severity of cough was subjectively evaluated. The authors reported that in phase I, guaifenesin was credited with reducing the number of coughs in 54 percent of the testing periods (not a 54-percent reduction). In phase II, the frequency of cough was reduced in 59 percent of the testing periods. The agency finds this study unacceptable because only subjective assessments were made and results were reported as changes observed in 150 "periods" of assessment without further information with respect to what constituted a period; therefore, no comparability for measurement could be established. It also is not clear whether the product studied contained an oral sympathomimetic ingredient (desoxyephedrine hydrochloride) in addition to guaifenesin. Additionally, phase I of the study was uncontrolled, and in phase II the vehicle was given during the washout periods. The agency notes that Cass et al. (Ref. 9), discussed below, indicated that the vehicle was shown to have activity. Thus, the only baseline for phase II of the Hayes study was pretreatment.

Schwartz et al. (Ref. 5) tested the relative merits of potassium iodide and a product containing a combination of guaifenesin and desoxyephedrine hydrochloride on cough and pulmonary function in asthmatic patients. The study is inadequate because details are lacking concerning the measurement of efficacy parameters and because the guaifenesin product contained an additional ingredient.



Three unpublished studies (Protocols 06, 08, and 14) and other information cited by one comment had previously been submitted to the agency to establish the effectiveness of guaifenesin as an expectorant (Ref. 6). The agency concluded that the studies were not sufficient to demonstrate the effectiveness of guaifenesin (Ref. 12). Cough frequency was assessed in the studies, but was measured subjectively; not objective cough-counting techniques were used. Thus, these studies are unacceptable to demonstrate a cough reduction claim.

The standard references cited by the comment did not contain any data to demonstrate a cough reduction claim for guaifenesin (Refs. 7 and 8).

Cass et al. (Ref. 9) measured the effectiveness of three antitussives in patients with cough due to chronic respiratory disease. The drugs used were terpin hydrate, ammonium chloride, an aromatic syrup (placebo), and a product containing a combination of 100 mg of guaifenesin and 1 mg of desoxyephedrine hydrochloride. The placebo served as the vehicle for all test preparations. This was a double-blind study with no washout between regimens. Subjective scores were determined on side effects, effects on cough, effects on sputum volume and tenaciousness, taste preference, and overall efficacy. The physician's and technician's assessments of efficacy were also subjectively scored. The study reports that all regimens reduced cough, but that only the aromatic syrup and the product containing guaifenesin and desoxyephedrine hydrochloride reached statistical significance, which "is not marked." For overall efficacy, the product containing guaifenesin and desoxyephedrine hydrochloride was recorded as the only preparation for which statistical significance was achieved. The agency finds this study unacceptable because the selection criteria do not adequately control variables, and this negates the value of the study. Additionally, the guaifenesin preparation contained desoxyephedrine hydrochloride, and the effect of this ingredient is not explained or evaluated. Moreover, the fact that 20 percent of the patients were discharged before the study was completed suggests that the inclusion criterion of cough did not ensure comparability.

Packman (Ref. 11) compared the antitussive effect of guaifenesin (100 and 200 mg) versus aqueous placebo on artificially induced cough in the 3 hours following administration. This was a single-blind, crossover study in which 37 subjects received one of the three

treatments on three separate occasions at 7-day intervals. Subjects were challenged with citric acid aerosol at 30 minutes, 1 hour, 2 hours, and 3 hours after dosing. Baseline cough counts were required to be in the range of 10 to 15 coughs. Coughs were recorded on a coded pneumotach recording. The sponsor concluded that, when compared with baseline, both 100 mg and 200 mg guaifenesin demonstrated significantly greater reduction in cough counts than placebo at all post-treatment timepoints.

Although this study noted the superiority of single doses of guaifenesin over a placebo control in reducing the number of coughs occurring in healthy subjects after artificial induction of cough with citric acid, the agency has reservations about the use of citric acid aerosol induced cough studies for cough claims for expectorants. As discussed in the tentative final monograph for OTC antitussive drug products (48 FR 48583), the agency does not consider induced cough studies alone as adequate to demonstrate the antitussive effectiveness of an ingredient. Likewise, induced cough studies are not adequate alone to demonstrate a cough reduction claim for expectorants. Moreover, in view of the recent study by Kuhn et al. (Ref. 13), discussed below, that failed to show any difference in cough between placebo and guaifenesin in patients with cough due to natural disease, the value of induced cough studies is questionable. Therefore, the agency concludes that the Packman study is unacceptable to demonstrate a cough relief claim. Studies to support the efficacy of guaifenesin in relieving cough must be conducted in patients with cough due to naturally occurring disease.

The agency also notes that the results of the Packman study (Ref. 11) are inconsistent with previously reported results from the same investigator under similar conditions. In an earlier study, Packman et al. (Ref. 14) found that guaifenesin was no better than placebo in reducing cough, although it appeared to enhance the combination of dextromethorphan and phenylpropanolamine.

In addition, a recent study by Kuhn et al. (Ref. 13) failed to show that guaifenesin is effective in suppressing cough in patients with cough due to natural disease. Kuhn's study suggests that artificial induction of cough may not be an appropriate method for studying expectorants. The investigators studied the efficacy of guaifenesin in reducing cough frequency in young adults with acute upper respiratory disease of less than 48 hours duration with cough. Evaluations were made by

using an objective cough-counting system and a questionnaire. Guaifenesin and its syrup vehicle were administered to 42 patients in this double-blind study for a 36-hour treatment period. A total of 2,400 mg (30 milliliters every 6 hours) of guaifenesin was administered. The protocol was similar to that suggested by the Panel (41 FR 38312 at 38369). In essence, simultaneously recorded subjective responses determined by questionnaire were compared with the cough counts obtained from a tape recording over a 60-hour period. Differences in sputum volume (a decrease in 88 percent in the treatment group and 62 percent in the placebo group) and decrease in viscosity (96 percent versus 54 percent in treatment and placebo groups, respectively) were demonstrated in the questionnaires of both groups when compared with baseline. However, the cough tape showed no differences in median cough frequency between the groups. Moreover, the tape demonstrated a diurnal pattern, which was present both before and after treatment and which was not reflected in the subjective cough frequency estimates obtained from the questionnaires.

In conclusion, none of the studies dealing with naturally occurring cough are acceptable for a cough reduction claim for guaifenesin because none of them used objective cough counting techniques (Refs. 2 through 6 and 9). The Panel emphasized objective cough counting as a requirement for any claim for amelioration of cough (41 FR 38355 and 38369), and the agency concurs. Moreover, the agency does not consider induced-cough studies alone as adequate to demonstrate a cough reduction claim. The agency's detailed comments and evaluations on the data are on file in the Dockets Management Branch (address above) (Refs. 15 and 16).

Based on the discussion above, the agency is not including in the expectorant final monograph a specific cough reduction (antitussive) claim for expectorants. However, submitted data demonstrate that guaifenesin loosens and thins sputum and bronchial secretions and makes expectoration easier. In the Vercelli study (see comment 5 above), over the first 4 to 6 days, patients who received guaifenesin produced a greater increase in sputum volume than did placebo patients. The mean percentage of total sputum volume expectorated by day 7 was significantly greater for guaifenesin patients than for placebo patients (69.3 percent vs 53.7 percent,  $p < 0.001$ ). Sputum became less viscous in patients who received



guaifenesin. Expectoration of secretions appeared to be easier in the guaifenesin-treated group than in the placebo group. The agency concludes that the results of the Vercelli study demonstrate that guaifenesin facilitates expectoration of retained secretions by increasing sputum volume and making sputum less viscous.

Terms such as "productive" and "nonproductive" cough are commonly used in the labeling of OTC cough-cold drug products. A productive cough produces phlegm (sputum), while a nonproductive cough is dry and often irritative. The agency notes that the Cough-Cold Panel stated that expectorants are agents that are used to promote or facilitate the evacuation of secretions from the bronchial airways to provide for the temporary relief of coughs due to minor throat and bronchial irritation as may occur with upper respiratory infection. This may be accomplished by reducing the thickness of these secretions or by augmenting the formation of a more fluid secretion. The secretions (sputum or phlegm) expectorated consists in part of respiratory tract fluids together with a varying mixture of saliva and postnasal secretions (41 FR 38355).

The Cough-Cold Panel also stated in its report that expectorants reduce the thickness of secretions or augment the formation of a more fluid secretion (41 FR 38355). By facilitating the evacuation of secretions from the bronchial airway, local irritants are removed. While such an effect may indirectly serve to diminish the tendency to cough, the mechanism of this indirect action is quite different from that of an antitussive which is specifically designed to inhibit or suppress cough. Any claim relating to the reduction of cough must be supported by objective cough counting studies. Expectorants would be expected to have their major usefulness in the irritative nonproductive cough as well as those coughs productive of scanty amounts of thick, sticky secretions (41 FR 38355).

Based on the above discussion, the agency believes that the phrase "helps loosen phlegm (sputum) and thin bronchial secretions to make coughs more productive" is an appropriate alternative labeling statement. However, any labeling suggesting that an expectorant is a "cough suppressant (antitussive)," "helps you cough less," "helps relieve cough," "helps ease cough" or is "for cough" or is a "cough formula" without the type of clarifying statements mentioned above would be inappropriate. Thus, because expectorants loosen and thin sputum

and bronchial secretions, and coughing enhances the removal of such secretions from the respiratory passageways, the agency is revising the indications for expectorants in § 341.78(b) as follows: "Helps loosen phlegm (sputum) and thin bronchial secretions to" (select one or more of the following: "rid the bronchial passageways of bothersome mucus," "drain bronchial tubes," and "make coughs more productive").

#### References

- (1) Comment No. C00197, Docket No. 76N-052C, Dockets Management Branch.
- (2) Connell, W. F., et al., "On the Expectorant Action of Resyl and Other Guaiacols," *Canadian Medical Association Journal*, 42:220-223, 1940.
- (3) Stevens, M. E., et al., "On the Expectorant Action of Creosote and the Guaiacols," *Canadian Medical Association Journal*, 48:124-127, 1943.
- (4) Hayes, E. W., et al., "A Clinical Evaluation of the Effectiveness of Robitussin in Chronic Cough," *Diseases of the Chest*, 30:441-448, 1956.
- (5) Schwartz, E., et al., "The Use of Antitussives in the Management of Bronchial Asthma," *American Practitioner and Digest of Treatment*, 2:585-588, 1956.
- (6) Comment Nos. SUP013 and SUP014, Docket No. 76N-0052, Dockets Management Branch.
- (7) Modell, W., "Drugs of Choice 1980-1981," C. V. Mosby Co., St. Louis, p. 461, 1980.
- (8) "AMA Drug Evaluations," 4th Ed., American Medical Association, New York, p. 469, 1980.
- (9) Cass, L. J., et al., "Comparative Clinical Effectiveness of Cough Medication," *American Practitioner and Digest of Treatment*, 2:844-851, 1951.
- (10) Comment No. C00190, Docket No. 76N-052C, Dockets Management Branch.
- (11) Packman, E. W., "Miscellaneous Colds Products, CRD No. 81-39," draft of unpublished study, Comment No. C00190, Docket No. 76N-052C, Dockets Management Branch.
- (12) Letter from W. E. Gilbertson, FDA, to F. A. Clark, A. H. Robins Co., coded ANS, Docket No. 76N-0052, Dockets Management Branch.
- (13) Kuhn, J. J., et al., "Antitussive Effect of Guaifenesin in Young Adults with Natural Colds," *Chest*, 82:713-718, 1982.
- (14) Packman E. W., et al., "The Utility of Artificially Induced Cough as a Clinical Model for Evaluating Antitussive Drug Combinations. Part I: Liquid and Solid Formulations of Systemic Drugs," *Current Therapeutic Research*, 21:855-866, 1977.
- (15) Letter from W. E. Gilbertson, FDA, to G. F. Hoffnagle, Richardson-Vicks, Inc., coded LET085, Docket No. 76N-052C, Dockets Management Branch.
- (16) Letter from W. E. Gilbertson, FDA, to A. W. Mercill, The Proprietary Association, coded LET086/ANS, Docket No. 76N-052C, Dockets Management Branch.

7. One comment requested that the labeling of guaifenesin as an OTC expectorant be expanded to include

labeling for health professionals (but not for the general public) as follows: "For the treatment of bronchitis, asthma, and chronic obstructive pulmonary disease when these conditions are complicated by thickened and/or impacted mucus." The comment stated that both the agency and the Cough-Cold Panel recommended that clinical trials to document the efficacy of guaifenesin be conducted in patients suffering from these conditions. The comment further stated that guaifenesin has been demonstrated to increase sputum volume and decrease sputum viscosity, and these factors enhance the expectoration of viscous bronchial secretions and thus aid in the treatment of these respiratory conditions. The comment (Ref. 1) submitted 25 references (Refs. 2 through 26) in support of its professional labeling claim.

The agency has reviewed the data submitted by the comment and concludes that the proposed labeling indication is not substantiated for the reasons described below. However, based upon the Vercelli study that supported the reclassification of guaifenesin as an expectorant from Category III to Category I (Ref. 27), the agency concludes that the following professional labeling claim, which is different from that proposed by the comment, is acceptable for guaifenesin: "Helps loosen phlegm and thin bronchial secretions in patients with stable chronic bronchitis."

Of the 25 references submitted by the comment, only 8 are concerned with the efficacy of guaifenesin as a single ingredient (Refs. 2, 3, 6, 9, 17, 21, 22, and 26), while 2 used a product containing an oral sympathomimetic ingredient (1 mg desoxyephedrine hydrochloride) and guaifenesin (Refs. 5 and 19). Most of these studies contain deficiencies which are sufficiently significant to preclude using the data in support of the comment's proposed professional labeling claim (Refs. 2, 3, 5, 17, 19, 21, and 22), while several of these studies provide some subjective support for a professional labeling claim (Refs. 6, 9, and 26). These latter three studies plus the Vercelli study (Ref. 27) provide sufficient support for the agency's professional labeling claim for guaifenesin noted above. The other 15 studies involved combination products, usually containing one bronchodilator, or a variety of other drugs, so that the effect of guaifenesin could not be adequately addressed (Refs. 4, 7, 8, 10 through 16, 18, 20, and 23 through 25).

The agency has the following comments on the studies in which guaifenesin was studied as a single



ingredient: Ackerman (Ref. 2) studied the use of antibiotics versus guaifenesin; however, he did not evaluate the expectorant or antitussive activity of guaifenesin. Blanchard et al. (Ref. 3) did a retrospective analysis of the investigators' subjective assessment of the efficacy of guaifenesin. Diagnostic criteria were not met; and there was no random assignment, no comparability of groups, and no controls. Chodosh (Ref. 6) studied the efficacy and mechanism of action of guaifenesin in chronic bronchitic patients. Evaluations included clinical assessment, pulmonary function tests, and sputum cytology (physical and chemical properties). Chodosh reported that statistical analysis revealed "general clinical improvement" with guaifenesin compared to placebo and sputum was more easily raised above the improvement noted with water alone. Although objective measures of test results were not provided, the study suggests that guaifenesin is efficacious in patients with bronchitis and that certain laboratory determinations can be correlated with clinical assessment of the drug. Hayes et al. (Ref. 9) subjectively evaluated the effectiveness of guaifenesin in reducing sputum tenaciousness in patients with pulmonary tuberculosis, bronchiectasis, or bronchitis, in a 2-phase study. A total of 150 observations were made for the patients studied. The investigators reported that guaifenesin was effective in loosening secretions in 80 percent of the 150 testing periods in phase I and in 75 percent of the testing periods in phase II.

The multi-center study by Robinson et al. (Ref. 17) evaluated guaifenesin's effect on both productive and nonproductive cough and the expectoration of sputum. Ease of expectoration was studied in subjects with acute upper respiratory infection (of 12 to 72 hours duration) with both "dry" and "productive" coughs. The study indicated that, based on subjective assessment, guaifenesin facilitated raising of sputum in productive cough but not in non-productive cough. The results obtained for some of these subjects were pooled for analysis; other results were not. Statistical analysis was carried out, but the subjects were classified each day as either improving, no change, or worsening. With the number of variables involved, objective measurement would appear essential for both cough and sputum parameters as noted by the Panel (41 FR 38369).

Stevens et al. (Ref. 19) studied guaifenesin in animals and humans. The

details of the study are sparse, and the study appears uncontrolled. Also, the patient population used in the study (medical students with colds) is inappropriate for the proposed professional labeling claim. Thomson et al. (Ref. 22) measured mucociliary clearance from the lung following administration of guaifenesin, but the clinical efficacy of the drug was not demonstrated. Wojcicki et al. (Ref. 26) evaluated four drug regimens in patients with chronic bronchitis, tuberculosis, bronchiectasis, and chronic bronchitis with asthma. The drugs tested were (1) a combination of narcotine (a non-narcotic antitussive) and guaifenesin, (2) narcotine, (3) guaifenesin, and (4) placebo. Ease of expectoration was subjectively measured. The investigators reported that the two regimens with guaifenesin (1 and 3) appeared to facilitate expectoration in 75 percent of the subjects. The agency's more detailed comments and evaluation of these references are on file in the Dockets Management Branch (address above) (Ref. 28).

The Vercelli study was conducted in patients with chronic bronchitis (Ref. 27). The results demonstrated the effectiveness of guaifenesin in helping to loosen and raise sputum. (See comment 5 above.) Based on this objective study (Ref. 27) and the subjective studies which support the use of guaifenesin in helping to raise sputum (Refs. 6, 9, and 26), the agency believes that the comment's suggested labeling claim "For the treatment of bronchitis, asthma, and chronic obstructive pulmonary disease when these conditions are complicated by thickened and/or impacted mucus" should be revised to read as follows: "Help loosen phlegm and bronchial secretions in patients with stable chronic bronchitis." The agency disagrees with the comments' specific suggested claim for the following reasons: (1) The effectiveness of guaifenesin in the symptomatic relief of sputum removal in asthmatics has not been demonstrated. Moreover, in asthma, the narrowing of the bronchi and drying of secretions can result in inspissated material and mucus plugs which further reduce the airway and produce difficult breathing. The appropriate treatment for such a condition is hydration, bronchoscopy with lavage and suctioning combined with anti-inflammatory drugs and bronchodilators. Without such an approach in the treatment of asthmatics, a safety concern exists.

(2) The patient population in the Vercelli study consisted of persons with chronic bronchitis. Because no objective

data were generated in a population with the other conditions mentioned by the comment, the agency is limiting the professional labeling claim for guaifenesin to patients with chronic bronchitis.

(3) The study population in the Vercelli study did not have conditions that would be characterized as "complicated by thickened and/or impacted mucus." Sputum characteristics were based on a 4-point scale; a 4 was assigned to a sputum sample which was pus-like, uniformly clumped, and did not move down a glass microscope slide inclined at a 45° angle. A value of 3 was assigned to a pus-like (clump-stringy) sample exhibiting very slow movement. Thickened and/or impacted mucus denotes sputum which is firmly lodged or wedged. The category which would be comparable to thickened and/or impacted would be a 4. The sputum of no patients in either test group was assigned a 4, but more than half of all patients had sputum characterized as a 3. Additionally, the term "complicated" means associated with other diseases, which in reference to the bronchi usually means infection. Infections would be treated with antibiotics. The Vercelli study did not include patients who required the use of antibiotics. Thus, the comment's suggested terms are not in keeping with the patient population that was studied and are not appropriate for a professional labeling claim. The use of the term "stable" in the revised claim eliminates the acute bronchitic and the chronic bronchitic patients whose disease may be complicated.

Therefore, the agency is including the indication "Helps loosen phlegm and thin bronchial secretions in patients with stable chronic bronchitis" as a professional labeling claim for guaifenesin in § 341.90(d). This professional labeling claim is only permitted for single ingredients expectorant drug products because no data have been presented to support the use of expectorant combination drug products, e.g., an expectorant and an antitussive, in the chronic bronchitic patient population.

#### References

- (1) Comment No. C00196, Docket No. 76N-052C. Dockets Management Branch.
- (2) Ackerman, B., "Treatment of Undifferentiated Respiratory Infections in Infants," *Clinical Pediatrics*, 7:391-395, 1968.
- (3) Blanchard, K., et al., "Effective Antitussive Agent in the Treatment of Cough in Childhood," *Journal-Lancet*, 74:443-446, 1954.
- (4) Brechter, C., "Clinical Trial with Terbutaline and Guaifacol," *Scandinavian*



*Journal of Respiratory Diseases*, 54:78-82, 1973.

(5) Cass, L.J., et al., "Comparative Clinical Effectiveness of Cough Medication," *American Practitioner and Digest of Treatment*, 2:844-851, 1951.

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(7) Goldberg, R.I., et al., "Combined Therapy in Treatment of Cough Secondary to Upper Respiratory Infections and Acute and Chronic Bronchitis," *Clinical Medicine*, 71:1543-1545, 1964.

(8) Grover, F.W., "Oxtriphylline Glyceryl Guaiacolate Elixir in Pediatric Asthma: With a Theophylline Review," *Annals of Allergy*, 23:127-147, 1965.

(9) Hayes, E.W., et al., "A Clinical Evaluation of the Effectiveness of Robitussin in Chronic Cough," *Diseases of the Chest*, 30:441-448, 1956.

(10) Heisen, A.J., "Treatment of Bronchial and Pulmonary Parenchymal Disorders," *Journal of the Medical Society of New Jersey*, 61:104-106, 1964.

(11) Legler V.F., et al., "Double-Blind Long-Term Study with a Combination of Tetracycline, Theophylline, Doxylamine Succinate, Etacfedrine, Phenylephrine and Guaifenesin in Chronic Bronchitis," (English translation), ("Doppelblind-Langzeitstudie mit einem Kombination spraparat aus Tetracyclin, Theophyllin, Doxylaminsuccinat, Etacfedrin, Phenylephrin und Guaifenesin bei chronischer Bronchitis"), *Arzneimittelforsch.*, 27:883-888, 1977.

(12) Levin, S.J., et al., "Theophylline-Glyceryl Guaiacolate Elixir (Quibron) Clinical and Blood Level Studies in Bronchial Asthma in Children," *Annals of Allergy*, 20:315-319, 1962.

(13) Levin, S.J., et al., "Theophylline-Glyceryl Guaiacolate Capsules (Quibron)," *Journal of the Michigan State Medical Society*, 62:1201-1203, 1963.

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(15) Puls, R.J., "Clinical Study With Oxtriphylline-Glyceryl Guaiacolate Tablets in Chronic Pulmonary Disease: A Double-Blind Crossover Study," *Current Therapeutic Research*, 6:353-356, 1964.

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(27) Comment No. LET077, Docket No. 76N-052C, Dockets Management Branch.

(28) Letter from W.E. Gilbertson, FDA, to S.L. Mercurio, Norwich Eaton Pharmaceuticals, Inc., coded LET084, Docket No. 76N-052C, Dockets Management Branch.

8. One comment stated that the study on which the agency based the reclassification of guaifenesin as an expectorant from Category III to Category I was seriously flawed and thus does not justify the claim that this drug is effective as an expectorant (Ref. 1). The comment maintained that the study contained the following flaws:

(1) The qualifications of the investigator were not included in the date that were received and reviewed by the comment.

(2) The study involved 40 patients with chronic bronchitis who were hospitalized in a pulmonary hospital in Italy. It is unclear whether randomization was adequate in this small group of patients and whether blinding was maintained in view of guaifenesin's distinctive taste.

(3) The study did not use patients similar to the majority of those for whom the drug will be used. The study involved hospitalized patients in Italy with chronic bronchitis, whereas guaifenesin is used in the United States almost exclusively for self-treatment of colds or acute bronchitis.

(4) There were a number of other serious design flaws. For example, the patients received numerous drugs in addition to guaifenesin, including bronchodilators (36 patients), cough suppressants (11 patients), antihistamines (3 patients), antianxiety agents (3 patients), and diuretics. How much of these medications the patients received and whether their use was similar in control and treatment groups were not stated in the study. These

drugs could have a substantial effect on sputum volume, viscosity, and cough severity. Other factors that can affect cough and sputum, such as smoking habits and fluid intake, were not measured.

(5) The two groups of 20 patients each (control and treatment) were different even before the drug (or placebo) was given. The group of patients designated to be treated with guaifenesin had a statistically significant greater severity (frequency) of cough and increased difficulty in coughing compared with the placebo group.

(6) Other differences between the guaifenesin and placebo groups cast further doubts on how well the 40 patients were randomized. Four patients in the guaifenesin group, but none in the placebo group, had complete disappearance of their cough by day 13. This condition continued through day 15. If these four patients all had chronic bronchitis, complete disappearance of cough would be an unusual finding.

(7) The study made little use of objective methods. The only "objective" measurements used were sputum volume (which could be changed dramatically by the presence of saliva) and a subjective judgment of the viscosity of sputum based on how it looked on slide. A much more objective method, using a viscosimeter, has been described by Hirsch et al. (Ref. 2) who found guaifenesin was ineffective as an expectorant in patients with chronic bronchitis. Viscosity was not improved with the drug when measured with the viscosimeter.

(8) Many of the improvements that may be attributable to guaifenesin were mainly subjective and did not begin until after 8 to 10 days of treatment. Such benefits would not be very useful to persons with short-term respiratory infections (such as colds) who desire quick relief.

The agency's evaluation of the study referred to by the comment is discussed in comment 5 above. The FDA supports the Category I classification of guaifenesin as an expectorant and has the following responses to the comment's criticisms of the study:

(1) The qualifications of the investigators are included in the guaifenesin submission (Ref. 3). When the study was submitted, the agency reviewed the curriculum vitae of the investigators and found the investigators qualified.

(2) According to the protocol, patients were assigned under double-blind conditions by use of a randomization schedule, which resulted in a well-balanced distribution of patients for age,



sex, sputum volume, and sputum viscosity. The guaifenesin group tended to have more severe symptoms than the placebo group with respect to cough and difficulty of expectoration. A randomization schedule is included in the statistical report section of the submission. The agency believes that the baseline characteristics were comparable for the two groups. With regard to the comment's concern that the study was not blinded due to guaifenesin's distinctive taste, the agency believes that it is not always possible to duplicate the distinct characteristics of a test drug without introducing the possibility of another variable to the test system. Although the placebo may not have had the same bitter aftertaste as guaifenesin, the placebo and treatment regimens both contained the syrup vehicle, but the placebo did not contain guaifenesin. Thus, the agency believes that the study was adequately blinded and controlled.

(3) Expectorants are indicated for the loosening of phlegm and bronchial secretions. The Panel suggested that to evaluate expectorants either patients with chronic bronchitis, pulmonary emphysema, or inactive pulmonary tuberculosis whose condition is relatively stable with no evidence of intercurrent infection that would affect cough or the character of the sputum, or patients with an acute upper respiratory infection, such as acute bronchitis with a dry nonproductive cough, could be used (41 FR 38369).

The agency believes that although either patient population recommended by the Panel can be used to evaluate expectorants, in order to accurately record the effect of these drugs on sputum production and viscosity, it may be more prudent to choose a population with chronic or stable symptoms (such as the chronic bronchitics chosen for this study) rather than a population with short-term symptoms (such as patients with acute upper respiratory infections). Hospitalization of the patients in the study was desirable because it ensured compliance to the protocol, enabled the investigators to maintain a controlled environment, and facilitated the recording of objective measurements.

(4) The comment criticized the use of concomitant drug therapy in the study. Many patients with chronic cough secondary to chronic bronchitis and other diseases may require occasional therapy for their comfort. To discontinue totally such therapy for a 2-week study period may be inappropriate or unethical. The submitted case histories document that cough suppressants, antihistamines, antianxiety drugs, and

bronchodilators were used. However, the clinical report states that the use of these medications was minimal, occurring only once or twice per patient during the study. The use of these drugs was equally distributed between placebo and guaifenesin groups, i.e., 5 placebo patients and 6 guaifenesin patients received an antitussive; 1 placebo patient and 2 guaifenesin patients received an antianxiety drug, and 20 placebo patients and 16 guaifenesin patients received a bronchodilator. Fluid intake was permitted with no restrictions unless medical reasons prohibited it. Smoking habits were not mentioned in the study. The agency notes that the use of bronchodilators (the medication used most frequently) and antitussives would more likely have an effect on cough reduction rather than expectoration. Because a cough reduction claim for expectorants has not been demonstrated by objective measures and, therefore, is not permitted, the effect of these drugs on the study results is considered negligible. (See comment 6 above.)

(5) The comment contended that treatment and placebo groups were different initially. Patients with chronic bronchitis were selected, but were required to have additional entrance criteria, i.e., must have had normal temperature and did not require the use of antibiotics or steroids. A 3-day washout period before baseline sputum values were recorded was required. The use of antitussives, mucolytics, and anticholinergics was prohibited. In subjects who required concomitant drugs, the use of these drugs was recorded on a one-time basis.

Subjective evaluations based on a 4-point scale (a rating of 0 to 3) were used to assess the frequency of cough and difficulty in raising sputum. Baseline values for all subjects in both placebo and treatment groups were a rating of either 2 or 3 for both study variables. Because a cough reduction claim for expectorants is not permitted, the comment's objection that the guaifenesin group's frequency of cough and difficulty in coughing was more severe than the placebo group appears moot. There is no objective method for assessing the difficulty of expectoration, but the differences between moderate effort (a rating of 2) and marked effort (a rating of 3) appear to be almost negligible. More importantly, placebo and treatment groups were not different at baseline in the other parameters of volume and viscosity, and it is with these two characteristics that differences in results were in fact recorded.

(6) Disappearance of cough in four patients in the guaifenesin group was a recorded result noted after the study had been in progress. The agency does not consider this occurrence a randomization problem. Although it may be true that it is unusual for a cough to disappear totally in patients with chronic bronchitis, it is not unusual for a cough to disappear for a day or two as recorded in the study (days 13 to 15). The American Thoracic Society's definition of chronic bronchitis notes the presence of a productive cough daily for at least 3 months of the year (Ref. 4). Moreover, as noted in the agency's statistical evaluation of the study, the four guaifenesin patients with no cough symptoms by the 13th or 14th day had no efficacy variables recorded thereafter. In all analyses, the sponsor replaced these missing values by the last available patient observation. This is a conservative approach in that true values for these patients (later during treatment) would probably show a higher degree of improvement than their last evaluation, and results are not substantially changed if these patients are excluded from the analysis. Finally, the relationship of cough and lung mucociliary clearance has been reported to be complementary (Ref. 5). Cough appears to be initiated when mucociliary clearance is ineffective. Guaifenesin has been shown to improve mucociliary clearance and to increase the output of respiratory tract fluid. Therefore, it is possible, although not proven, that, due to improvement in mucociliary clearance, cough decreased or disappeared transiently because it was not needed.

(7) The criticism that the study makes little use of objective methods is valid to a degree; however, because of the difficulty in evaluating the effectiveness of expectorants, both objective and subjective evaluations are used. The variables that were evaluated in the study included sputum volume, sputum characteristics, difficulty of expectoration, and cough severity. Daily sputum volume was objectively measured, a 24-hour collection measured in milliliters was recorded. Sputum characteristics were measured using a 4-point scale that described sputum characteristics and rapidity of flow down a microscope slide tilted at a 45-degree angle. Although this measurement cannot be recorded in terms such as those used to express measurements from a viscosimeter (e.g., pounds per square inch), it is objective. Values were assigned as follows: 4 (pus-like, uniformly clumped and no movement down the slide); 3 (clump-



stringy with very slow movement); 2 (dense, stringy, and slow movement down the slide); and 1 (clear and flowed quickly). Additionally, as discussed at a workshop on lung mucociliary clearance, there is a large range of mucus viscosity that is recorded during adequate mucociliary transport, but a narrow range for elasticity. How these two characteristics influence expectoration is unclear, but elasticity appears more important than viscosity (Ref. 5).

There are no objective methods for measuring the difficulty of expectoration; therefore, subjective evaluations must be relied upon. A 4-point scale was also used to assess difficulty of expectoration. The values assigned were: 0 (no difficulty); 1 (with slight effort); 2 (with moderate effort); and 3 (with great effort).

For cough severity, objective methods can be used (i.e., cough counting); however, the study did not use objective methods but simply used a 4-point scale of 0 (absence of symptoms); 1 (intermittent, sporadic cough); 2 (many coughing spells throughout the day); and 3 (continuous coughing). The Panel reviewed the Hirsch study (Ref. 2), referred to by the comment, in which a viscosimeter was used (41 FR 38362). However, the Panel did not recommend that this type of instrument be used to evaluate expectorants.

(8) With respect to the time required for the action of guaifenesin to be documented and whether such benefits would be useful for persons with short-term respiratory symptoms who desire quick relief, the data showed that over the first 4 to 6 days the sputum volume increased in guaifenesin patients and then decreased. The mean percentage of total sputum volume expectorated by day 7 was significantly greater on guaifenesin than on placebo (69.3 percent vs. 53.7 percent,  $p < 0.001$ ) and the mean number of days to expectoration of 75 percent of the total sputum volume was significantly lower on guaifenesin than on placebo (8.40 vs. 10.65 days,  $p < 0.001$ ). The change in sputum characteristics was accompanied by improvement in subjective measures of raising sputum and of cough severity.

A recent study by Kuhn et al. (Ref. 6) on the effectiveness of guaifenesin on the symptoms of the common cold demonstrated no antitussive effect, but recorded improvement in the treatment group over placebo with respect to changes in sputum, i.e., an increase in volume and ease of expectoration. As set forth in this document, OTC labeling for expectorants does not refer to specific disease entities, but rather that

the product is to be used to loosen phlegm (sputum) and thin bronchial secretions. However, the agency is including a professional labeling claim for guaifenesin in this document that allows the use of the drug in individuals with stable chronic bronchitis. (See comment 7 above.) In addition, the Panel noted a study by Thomson et al. (41 FR 38363) that reported that, in bronchitic patients, inhaled radioactive particles were removed more rapidly and within 5 hours after administering guaifenesin than after administering the placebo. This study suggests that the therapeutic action of guaifenesin may occur shortly after administration, but that the effect of the drug on sputum volume requires longer to record objectively.

The agency does not find the guaifenesin study seriously flawed as claimed by the comment. The agency acknowledges that there are conflicting reports in the literature regarding guaifenesin's effectiveness as an expectorant, and much of the controversy deals with determining suitable objective test methods for evaluating expectorants. The Panel recognized the value of using both subjective and objective methodology and recommended that only one additional subjective study be done. The subjective study could also use objective methods, such as sputum volume, sputum viscosity, and character and color of sputum (41 FR 38369).

The agency determined that objective measures of sputum volume and viscosity correlated with subjective evaluations should be performed to establish the effectiveness of guaifenesin as an expectorant. The guaifenesin study has fulfilled these requirements, and, on this basis, guaifenesin has been upgraded to monograph status.

#### References

- (1) Comment No. C00199, Docket No. 78-052C, Dockets Management Branch.
- (2) Hirsch, S. R., et al., "The Expectorant Effect of Glyceryl Guaiacolate in Patients with Chronic Bronchitis. A Controlled in Vitro and in Vivo Study," *Chest*, 63:9-14, 1973.
- (3) Comment No. LET077, Docket No. 76N-052C, Dockets Management Branch.
- (4) Harris, H. W., et al., "Chronic Bronchitis, Asthma, and Pulmonary Emphysema," *American Review of Respiratory Diseases*, 85:762, 1962.
- (5) Clarke, S. W., et al., "Lung Mucociliary Clearance and the Deposition of Therapeutic Aerosols (General Summary)," *Chest*, 80:921-924, 1981, Supplement.
- (6) Kuhn, J. J., et al., "Antitussive Effect of Guaifenesin in Young Adults with Natural Colds," *Chest*, 82:713-718, 1982.

9. One comment maintained that, although the Panel was unable to make a determination that ipecac is effective, ipecac as an emetic agent would, in theory, have marked expectorant action. The comment stated that the expectorant action of ipecac has been demonstrated in animals and, because techniques for evaluating the effectiveness of expectorants in humans are still unsatisfactory, extrapolations from animal studies which correlate with pharmacologic theory should be acceptable. If clinical judgement supports these extrapolations, the comment contended that ipecac and other expectorants can be considered as potentially effective provided they are used in the appropriate dosage, which may be greater than the conventional dosage.

The agency recognizes that some animal studies show that ipecac can increase the flow of respiratory tract fluid (41 FR 38364). However, human studies reviewed by the Panel did not demonstrate ipecac's effectiveness as an expectorant. Although animal studies are very useful in the preliminary stages of drug development to indicate a drug's possible effect in humans, animal studies alone cannot be used to support the effectiveness of a drug in humans. Clinical trials conducted in the target population are needed to assess a drug's effect in humans. The comment submitted no new data to support the effectiveness of ipecac as an expectorant. Ipecac and other nonmonograph expectorant ingredients can be tested in humans to determine whether conventional doses or even larger doses are effective. If larger than recommended doses are not within a known safety range, additional safety studies will be needed. The agency notes that two studies in humans on ipecac (at a dose corresponding to 0.82 mg of total alkaloids of ipecac) have been submitted to the agency and are presently under review. (See comment 10 below.)

10. Two comments disagreed with the agency's tentative conclusion at 47 FR 30007 that the effectiveness of ipecac as an expectorant has not been established. One of the comments stated that its combination liquid drug product, which contains ipecac as well as other ingredients, has been sold for more than 62 years as a "natural" ingredient OTC cough medicine. Two clinical studies that were previously submitted to the agency and hundreds of physician's confidential patient reports have attested to the efficacy of the product, the comment maintained. The comment added that if its small company is



required to change the formula of the product, the company would lose its marketing franchise. The product would then become just another "me too" product with no formula or performance individuality to distinguish it or to help offset a huge, competitive market.

The confidential patient reports, isolated case reports, random experience, and reports lacking details that permit scientific evaluation cannot be regarded as proof of effectiveness, but must be corroborated by clinical studies. The two studies mentioned by one of the comments were discussed in the tentative final monograph (47 FR 30007). The studies were conducted using a combination product containing ipecac, beechwood creosote, cascara, menthol, white pine, wild cherry, and alcohol. The agency concluded that because the ingredients of the combination drug product were not studied individually, it was impossible for the agency to ascertain which ingredients in the product were responsible for any of the effects obtained. Additionally, the studies did not include any objective measurements of sputum volume and sputum viscosity. The agency considers these measurements necessary to establish the effectiveness of an expectorant ingredient.

After the comments were submitted, and while the administrative record was open, the agency approved a proposed protocol for studying ipecac that had been submitted by one of the comments (Refs. 1, 2, and 3). On January 6, 1987, after the administrative record had closed, a citizen petition was filed with the agency submitting two studies on the effectiveness of ipecac as an expectorant (Ref. 4). The studies are presently under review. Therefore, at this time, ipecac is not included in the final monograph for OTC expectorant drug products. However, if the submitted new data establish the effectiveness of ipecac as an expectorant, procedures to amend the monograph will be initiated under 21 CFR 330.10(a)(12). Regulatory policy for products containing nonmonograph ingredients is set forth in the *Federal Register* of May 13, 1980 (see 45 FR 31424 to 31425).

Concerning the economic effects of reformulation cited by the comment, the agency published a notice in the *Federal Register* of February 8, 1983 (48 FR 5806), announcing the availability of an assessment of the economic impacts of the agency concluded that the OTC drug review. In that assessment, the agency concluded that the OTC drug review was not a major rule as defined in

Executive Order 12291, but recognized that significantly large impacts might be experienced by some small firms in some years. FDA has a statutory mandate to assure that OTC drug products are safe and effective for their intended use and are properly labeled. The statute does not allow FDA to waive these important public health considerations merely because a product's formula individuality may be lost or because additional costs may be incurred by a manufacturer in order to achieve compliance with a monograph.

#### References

- (1) Comment Nos. RPT003 and SUP001, Docket No. 76N-052C, Dockets Management Branch.
- (2) Letters from W.E. Gilbertson, FDA, to H. Jenkins, Creomulsion Co., coded LET080 and LET082, Docket No. 76N-052C, Dockets Management Branch.
- (3) Letter from H. Jenkins, Creomulsion Co., to W.E. Gilbertson, FDA, coded LET081, Docket No. 76N-052C, Dockets Management Branch.
- (4) Comment No. CP, Docket No. 76N-052C, Dockets Management Branch.

11. One comment stated that it is not clear why ipecac syrup should be limited to children 6 years of age and over and that apparently there is no suggestion that it is more dangerous in children under 6 and over 2.

As discussed in the tentative final monograph (47 FR 30007), the agency based its evaluation of the use of ipecac syrup in children on the recommendation of a committee of experts in pediatric drug therapy who served as advisors to the Panel in determining pediatric dosages for OTC cough-cold drug ingredients. These experts reviewed the available data and recommended that ipecac syrup, as an OTC expectorant, be used only in children 6 years of age and over. The Panel also reviewed the available data and noted that there were no clinical studies substantiating the effectiveness of ipecac syrup as an expectorant and no data on the toxicity of ipecac syrup as a single ingredient for expectorant use in children under 6 years of age. Because of this lack of data, the Panel placed ipecac syrup as an expectorant in Category III for effectiveness and adopted the pediatric committee's recommendation that ipecac syrup not be given to children under 6 years of age except as directed by a doctor.

The comment provided no new information that would lead the agency to alter the Panel's recommendations or its conclusions in the tentative final monograph regarding the OTC use of ipecac syrup in children under 6 years of

age. Therefore, ipecac syrup is not included in this final monograph.

#### C. Comments on OTC Expectorant Labeling

12. One comment noted its continuing position that FDA cannot legally and should not, as a matter of policy, prescribe exclusive lists of terms from which indications for use for OTC drugs must be drawn, thereby prohibiting alternative OTC drug labeling terminology that is truthful, not misleading, and intelligible to the consumer. The comment added that these views were presented to FDA in oral and written testimony in connection with the September 29, 1982 agency hearing on the exclusivity policy.

The comment added that these labeling restrictions prevent the use of words that have been widely understood and commonly used for generations on OTC medications. The comment stated that the industry has long encouraged an agency policy that would allow choice in labeling nonprescription medicines for consumer use and urged the Commissioner to avoid restricting alternative labeling not only in this monograph but also in future proposed rulemakings.

In the *Federal Register* of May 1, 1986 (51 FR 16258), the agency published a final rule changing its labeling policy for stating the indications for use of OTC drug products. Under 21 CFR 330.1(c)(2), the label and labeling of OTC drug products are required to contain in a prominent and conspicuous location, either (1) the specific wording on indications for use established under an OTC drug monograph, which may appear within a boxed area designated "APPROVED USES"; (2) other wording describing such indications for use that meets the statutory prohibitions against false or misleading labeling, which shall neither appear within a boxed area nor be designated "APPROVED USES"; or (3) the approved monograph language on indications, which may appear within a boxed area designated "APPROVED USES," plus alternative language describing indications for use that is not false or misleading, which shall appear elsewhere in the labeling. All other OTC drug labeling required by a monograph or other regulation (e.g., statement of identity, warnings, and directions) must appear in the specific wording established under the OTC drug monograph or other regulation where exact language has been established and identified by quotation marks, e.g., 21 CFR 201.63 or 330.1(g). The final rule in this document is subject to the labeling provisions in § 330.1(c)(2).



13. One comment objected to the agency's limiting the statement of identity of expectorant drug products to only one term, i.e., "expectorant." The comment urged FDA to allow manufacturers alternative ways of expressing the statement of identity in accord with 21 CFR 201.61, which allows the statement of identity to include an accurate statement of the general pharmacological category(ies) of the drug or the principal intended action(s) of the drug. The comment stated that by using the principal intended actions to describe these products instead of using only their pharmacologic categories, an expectorant could be described as a product "for the loosening of phlegm." The comment added that such a description would have more meaning to laymen and should not be prohibited.

Wherever possible, the agency prefers to use the general pharmacologic category as the statement of identity because information on the principal intended action of the product is provided in the indications section. However, in instances where the pharmacologic category is not appropriate as the statement of identity, the principal intended action is used. For example, the statement of identity for an antihistamine used as a nighttime sleep-aid is "nighttime sleep-aid."

The alternative statement of identity suggested by the comment for expectorant drug products is similar to the indications statements that were proposed for these drugs in § 341.78(b) of the tentative final monograph (47 FR 30009). The agency sees no need to include in the statement of identity for expectorants the same information found in the indications section. However, because the phrase is descriptive of the action of expectorant drug products, it or similar phrases may appear elsewhere in the labeling of an OTC expectorant drug product (but may not appear in any portion of the labeling required by the monograph and may not detract from such required information) provided they meet the provisions of section 502 of the act (21 U.S.C. 352) relating to misbranding. Therefore, the comment's suggestion is not being included in this final monograph.

14. One comment referred to the following warning for expectorants in proposed § 341.78(c)(2): "Do not take this product for persistent or chronic cough such as occurs with smoking, asthma, or emphysema, or where cough is accompanied by excessive secretions unless directed by a doctor." The comment stated that the words "or where cough is accompanied by excessive secretions unless directed by

a doctor" are "surplus" and are not needed.

The comment did not provide any data to support its contention that the last portion of the warning is not needed. The agency believes that the words which the comment considers as "surplus" are necessary in the warning statement because these words reinforce the importance of consulting a physician in cases of coughs where a serious disease condition may be present. As the Panel noted, expectorants are used \* \* \* to provide for the temporary relief of coughs due to minor throat and bronchial irritation as may occur with upper respiratory infection (41 FR 38355). The agency notes that a cough frequently accompanies both minor upper respiratory infections and more serious respiratory infections. In minor upper respiratory conditions in which cough is nonproductive or is accompanied by scanty, thick secretions, and lasts for no more than a week, an expectorant can be used by the self-medicating consumer to make the cough more productive by loosening and thinning the bronchial secretions and phlegm. Accordingly, the agency is allowing the following claim for expectorants: "Helps loosen phlegm (sputum) and thin bronchial secretions to" (select one or more of the following: "rid the bronchial passageways of bothersome mucus," "drain bronchial tubes," and "make coughs more productive"). (See comment 6 above.)

The agency is aware that a chronic cough or cough accompanied by excessive secretions may be indicative of a more serious respiratory disease for which a physician should be consulted. Therefore, the warning proposed in § 341.78(c)(2) (redesignated as § 341.78(c)(1) in this document) is being included in this final monograph without the change suggested by the comment. In addition, the agency believes that the term "chronic bronchitis" should also be included in the warning. Patients with chronic bronchitis who have a persistent cough or excessive secretions should seek the advice of a physician before using an expectorant. Additionally, to make the warning clearer to consumers, the agency is substituting the phrase "phlegm (sputum)" for "secretions." Therefore, the agency is revising the warning to read as follows: "Do not take this product for persistent or chronic cough such as occurs with smoking, asthma, chronic bronchitis, or emphysema, or where cough is accompanied by excessive phlegm (sputum) unless directed by a doctor."

15. Three comments disagreed with the agency's proposed substitution of

the word "doctor" for "physician" in OTC drug labeling. One comment stated that because "physician" is a term that is recognized by people of all ages and social and economic levels, there is no need for the change, which would be costly and provide no benefit. The comment further contended that physician is a more accurate term, whereas "doctor" is a broad term that could confuse and mislead the lay person into taking advice on medication from persons other than medical doctors, such as optometrists, podiatrists, and chiropractors. The other two comments added that the term "physician" is clearly defined as a person licensed to practice medicine, whereas the term "doctor" is ambiguous and much more general. One of these comments recommended that FDA not eliminate "physician," the more specific term, but allow the option of using either term.

In an effort to simplify OTC drug labeling, the agency proposed in a number of tentative final monographs to substitute the word "doctor" for "physician" in OTC drug monographs on the basis that the word "doctor" is more commonly used and better understood by consumers. Based on comments received to these proposals, the agency has determined that final monographs and any applicable OTC drug regulation will give manufacturers the option of using either the word "physician" or the word "doctor." This final monograph provides that option.

16. One comment objected to elimination of the term "Caution(s)" in the labeling of OTC drug products. The comment claimed that a warning precludes use under certain conditions, whereas "caution" does not preclude use, but may often alert the consumer to a potential problem, e.g., "Caution: If irritation develops discontinue use and consult a physician." Thus, the word "warning" is harsher than "caution." The comment stated that a caution may also be used to add emphasis, e.g., "Caution: Use only as directed," or to alert the user to a special need regarding the care of a product, e.g., "Caution: Keep out of direct sunlight;" "Store in refrigerator;" "Replace bottle cap."

The comment argued that it would undoubtedly dilute the impact of essential warning statements if "cautions," which require the consumer to take certain precautions while using the product, were intermingled with "warnings," which signal that the product should not be used at all under specified circumstances. Although both types of statements are usually used to call attention to danger, the distinction



is important, particularly when products contain long lists of warnings. The comment added that because the same phrases may be warnings with regard to one class of products and merely cautions with regard to another, the flexibility of both terms is essential in order to prepare accurate and comprehensible labeling.

Section 502(f)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(f)(2)) states, in part, that any drug marketed OTC must bear in labeling " \* \* \* such adequate warnings \* \* \* as are necessary for the protection of users \* \* \* ." Section 330.10(a)(4)(v) of the OTC drug regulations provides that labeling of OTC drug products should include " \* \* \* warnings against unsafe use, side effects, and adverse reactions \* \* \* ."

The agency notes that historically there has not been consistent usage of the signal words "warning" and "caution" in OTC drug labeling. For example, in §§ 369.20 and 369.21 (21 CFR 369.20 and 369.21), which list "warning" and "caution" statements for drugs, the signal words "warning" and "caution" are both used. In some instances, either of these signal words is used to convey the same or similar precautionary information.

FDA has considered which of these signal words would be most likely to attract consumers' attention to that information describing conditions under which the drug product should not be used or its use should be discontinued. The agency concludes that the signal word "warning" is more likely to flag potential dangers so that consumers will read the information being conveyed. Therefore, FDA has determined that the signal word "warning," rather than the word "caution," will be used routinely in OTC drug labeling that is intended to alert consumers to potential safety problems.

#### D. Comments on Testing

17. One comment stated that because there is a striking lack of data regarding the use of expectorant drugs in children, it is important to have research conducted to clarify the role of these agents in the care of children.

The agency agrees with the comment that there is a lack of data regarding the use of expectorant drugs in children. Because of this lack of data, the Panel consulted a committee of experts on pediatric drug therapy in order to determine pediatric dosages for OTC cough-cold drug ingredients. The Panel and the pediatric committee recommended that pediatric dosages based on age be allowed for those OTC drugs that had a wide margin of safety

and for which adequate effectiveness data were available.

The Panel reviewed one study on the effectiveness of guaifenesin as an antitussive in 76 infants and children, 2 months to 16.5 years of age (Ref. 1). The investigators reported no disagreeable side effects, such as nausea, vomiting, and loss of appetite, and concluded that the efficacy of this guaifenesin product in the treatment of cough in children can be attributed to its "expectorant, demulcent, and general antitussive qualities resulting from an increased respiratory tract fluid." The agency concurs that research on other expectorants should be conducted to clarify the role of these ingredients in the care of children.

#### Reference

- (1) Blanchard, K., and R.A. Ford, "Effective Antitussive Agent in the Treatment of Cough in Childhood," *The Journal-Lancet*, 74:443-446, 1954.

18. One comment disagreed with the agency's changes in the Panel's recommended testing requirements for expectorant drugs. The comment stated that the Panel had concluded that because there were no suitable objective methods at that time for evaluating expectorants, the subjective evaluation of the patient must be relied upon for the assessment of the drug's expectorant activity (41 FR 38369). The comment added, however, that in the tentative final monograph, the agency stated, with respect to guaifenesin, that although the Panel required only subjective tests for determining the effectiveness of expectorants, the agency believed that objective measurements of sputum volume and sputum viscosity should be done (47 FR 30005). The comment maintained that although there may be objective methodology to measure guaifenesin's expectorant activity, guaifenesin may or may not be truly representative of expectorant drugs as a class. Therefore, objective methodology to assess other expectorants has not yet been established. Furthermore, different expectorants may produce different effects by which their therapeutic benefits are achieved. Therefore, different objective and subjective criteria may be needed to assess their efficacy. The comment concluded that to be consistent with the Panel's recommendations, the emphasis in studying expectorants should be on clinical benefits, such as relief of discomfort, breathing comfort, and ease of expectoration, all primarily subjective parameters. If objective criteria are feasible and appropriate, they can be added to the subjective criteria, the comment added.

In changing the requirements for testing expectorant drugs, the agency was aware that the Panel stated that there were no suitable objective measures for evaluating the ease in raising secretions when testing expectorants, but that the Panel also stated that "additional help in evaluating effectiveness may be provided by some objective indices such as: the volume and dry weight of sputum collection over a given time (12 to 24 hours); the character and color of the sputum raised; and some measure of its flow properties, such as viscosity of consistency" (41 FR 38369). The Panel recognized that these objective indices would be useful in evaluating the efficacy of expectorants. The agency is requiring objective measurements of sputum volume and viscosity because it believes that if an expectorant works there should be a measurable objective change in sputum volume and sputum viscosity. The objective sputum volume and viscosity tests that were used in the study to support the efficacy of guaifenesin were feasible and appropriate. The volume of sputum collected over a 24-hour period was measured daily, and the sputum viscosity was measured by using a 4-point scale that described sputum characteristics and rapidity of flow down a microscope slide tilted at a 45-degree angle. The study demonstrated the efficacy of guaifenesin and showed that subjective improvement could be correlated with objective measures of expectorant action, i.e., an increase in volume and a decrease in viscosity of sputum. (See comment 5 above.)

With regard to the comment's statement that objective methodology to measure the effectiveness of other expectorant ingredients has not been established, the agency acknowledges that because of the potentially different mechanisms of action of expectorants, it can be expected that there may be different objective and subjective criteria that might be used to demonstrate the efficacy of expectorants. However, regardless of the mechanisms of action, expectorants as a class should help to remove secretions from the respiratory airways by reducing the viscosity of secretions or by increasing the volume, thus making the secretions more fluid. For this reason, the agency believes that the objective measures used in testing guaifenesin should also be used in testing the efficacy of other expectorants.

The methods for studying guaifenesin, which were found acceptable by the agency, do not preclude a



manufacturer's proposing other reasonable objective and subjective methods for studying expectorants. The agency will meet with industry officials at their request to discuss testing protocols for any ingredient or condition that industry wishes to upgrade to monograph status. (See the OTC Drug Review Policy statement, published in the *Federal Register* of September 29, 1981; 46 FR 47740 and clarified April 1, 1983; 48 FR 14050.)

19. One comment objected to the shortening of the time period for testing expectorants from 5 years after publication of the final monograph, as recommended by the Panel, to 12 months after publication of the tentative final monograph, as stated by FDA in the tentative final monograph. The comment stated that this time reduction would pose a hardship on small companies, particularly because an acceptable protocol for determining the effectiveness of expectorants has not been established, the requirements for testing have been expanded, and because a small company cannot afford the immense costs involved in developing experimental methodology. The comment stated that a 5-year period after publication of the final monograph would enable a small company to draw on the experience and expertise of larger companies, which are better able to develop suitable protocols and methodology. Thus a small company could focus its attention and limited resources on the additional clinical trials needed to demonstrate efficacy of its products.

As stated in the tentative final monograph for OTC anticholinergic drug products and expectorant drug products (47 FR 30002), in *Cutler v. Kennedy*, 475 F. Supp. 838 (D.D.C. 1979), the court ruled that the marketing of Category III drugs after publication of a final monograph is illegal. Consequently, the agency deleted the provision of the OTC drug procedural regulations that had allowed the OTC marketing of a Category III drug after a final monograph had been established. Thus, the time allowed for the concurrent marketing and testing of Category III expectorants was reduced from 5 years after publication of the final monograph to 12 months after publication of the tentative final monograph.

The agency does not believe that this time reduction is unreasonable. Manufacturers have been aware of the Category III classification of expectorants since the Panel's report was published in September 1976, and have had ample opportunity to discuss testing protocols with the agency and to

conduct clinical trials. The agency has emphasized that each manufacturer of a product with a Category III condition need not undertake the necessary testing. Manufacturers have been encouraged to work with other manufacturers and with trade associations in developing protocols and arranging for the necessary studies to establish Category I status.

Regarding the comment's concern that a small company faces an additional burden in trying to develop an acceptable protocol for testing expectorants, an acceptable protocol has now been developed for one expectorant, guaifenesin, and this ingredient has been reclassified to Category I. (See comment 5 above.) The guaifenesin protocol that was developed and approved contains the same principles that the Panel had recommended (41 FR 38369); thus, developing suitable protocols does not necessarily entail immense cost or highly technical procedures. The agency also emphasizes that publication of a final monograph does not preclude a manufacturer's testing an ingredient. After a final monograph has been published, any interested person can petition the Commissioner to amend the monograph to include a particular ingredient or condition. (See 21 CFR 10.30 and 330.10(a)(12).)

## II. Summary of Significant Changes From the Proposed Rule

1. Guaifenesin has been reclassified from Category III to Category I and is included in this final monograph as an OTC expectorant. The agency concludes that the Vercelli study (see comment 5 above) demonstrates that guaifenesin, by increasing sputum volume and making sputum less viscous, facilitates expectoration of retained secretions. Because expectorants loosen and thin sputum and bronchial secretions, and coughing enhances the removal of such secretions from the respiratory passageways, the agency is revising the indications for expectorants in § 341.78(b) as follows: "Helps loosen phlegm (sputum) and thin bronchial secretions to" (select one or more of the following: "rid the bronchial passageways of bothersome mucus," "drain bronchial tubes," and "make coughs more productive"). (See comments 5 and 6 above.)

2. Both the Cough-Cold Panel and the Oral Cavity Panel reviewed data on the safety and effectiveness of ingredients used as expectorants in OTC drug products. The Oral Cavity Panel, in its report on OTC oral health care drug products published in the *Federal Register* of May 25, 1982 (47 FR 22760),

classified potassium iodide in Category II, and ammonium chloride, tolu balsam, and horehound in Category III as expectorants. The Cough-Cold Panel reviewed twenty expectorants, including the expectorants reviewed by the Oral Cavity Panel, except for horehound.

Following publication of the advance notice of proposed rulemaking for OTC oral health care drug products, the agency received no data or comments in support of the effectiveness of any expectorant for oral health care use. Because the Cough-Cold Panel did an extensive review of expectorant ingredients and no data to support safety and/or effectiveness have been submitted, the agency concludes in this final rule that the expectorants that were considered by the Oral Cavity Panel, i.e., potassium iodide, ammonium chloride, tolu balsam, and horehound, are nonmonograph ingredients.

3. The agency has included the phrase "taken orally" in the definition of expectorant in § 341.3. (See comment 3 above.)

4. The agency has reviewed the labeling proposed in the tentative final monograph and has concluded that the indication proposed in § 341.78(b)(2), "Relieves irritated membranes in the respiratory passageways by preventing dryness through increased mucus flow" is not supported by the data submitted. The Panel proposed this claim as a Category I labeling indication for expectorants (41 FR 38355) and it was also included in the tentative final monograph (47 FR 30009). However, because of a lack of efficacy data at that time, no expectorant ingredients were classified in Category I by the Panel in its report or by the agency in the tentative final monograph.

The agency has reevaluated the Panel's report and the data on expectorants that were submitted to the Panel (41 FR 38355 to 38370) and finds the evidence inadequate to support this particular labeling claim. A review of product labeling submitted to the Panel indicates that some products containing expectorants were labeled with claims such as "for relief of minor throat or bronchial irritation," and "soothes irritated throat membranes"; however, no data supporting these claims were provided (Ref. 1).

Moreover, the data submitted on guaifenesin, the only expectorant ingredient included in this final monograph, did not demonstrate that guaifenesin relieves irritated membranes in the respiratory passageways by preventing dryness through increased mucus flow. The guaifenesin data demonstrate that the



drug increases sputum volume and viscosity (which supports the indications in this final monograph), but no evaluations were done to show that the increase in sputum volume and viscosity relieved irritated membranes in the respiratory passageways. Therefore, in the absence of substantiating data, the labeling proposed in § 341.78(b)(2) is not included in the final monograph. However, the agency recognizes that many cough-cold drug products are formulated with inactive ingredients such as sugar-based syrups and other mucilaginous substances that can provide a soothing effect on the mucosa of the throat. As discussed in the tentative final monograph for OTC oral health care drug products, published in the *Federal Register* of January 27, 1988 (53 FR 2450), terms such as "soothing" may be used to describe the action of a sugar-based syrup or lozenge. Use of this term is not considered as making a demulcent claim because the term describes certain physical and chemical attributes of a drug product and is distinctly separate from labeling indications. Terms that describe product characteristics (e.g., color, odor, flavor, and feel) often appear in consumer labeling as additional product information. Because such claims are not directly related to the safe and effective use of a drug product, the agency considers these claims to be outside the scope of the monograph. Any term that is outside the scope of the monograph may appear in any portion of the labeling not required by the monograph, but such labeling may not detract from the required information. Therefore, the labeling of an OTC expectorant drug product could include truthful terms that describe product characteristics, such as "soothing," provided such terms are placed in an area of the labeling that is outside the required monograph labeling.

#### Reference

(1) OTC Volumes 040099, 040108, 040163, 040190, 040201, 040219, and 040220.

5. Proposed § 341.78(c)(1) is not included in this final monograph. Proposed § 341.78(c)(1) provided a warning not to give expectorants to children under 2 years of age unless directed by a doctor. Because the directions provided under new § 341.78(d) state clearly that a doctor should be consulted for the use of expectorants in children under 2 years of age, the agency believes that the proposed warning is repetitious and unnecessary. According, proposed § 341.78(c)(2) has been redesignated as

§ 341.78(c)(1), and proposed

§ 341.78(c)(3) as § 341.78(c)(2).

6. The agency has modified the warning proposed in § 341.78(c)(2) of the tentative final monograph (redesignated as § 341.78(c)(1)) to include "chronic bronchitis" and has substituted the phrase "phlegm (sputum)" for "secretions." (See comment 14 above.)

7. In an effort to simplify OTC drug labeling, the agency proposed in a number of tentative final monographs to substitute the word "doctor" for "physician" in OTC drug monographs on the basis that the word "doctor" is more commonly used and better understood by consumers. Based on comments received to these proposals, the agency has determined that final monographs and any applicable OTC drug regulation will give manufacturers the option of using either the word "physician" or the word "doctor." This final monograph provides that option. (See comment 15 above.)

8. In § 341.90(d) the agency is including the following professional labeling claim for guaifenesin as a single ingredient expectorant drug product: "Helps loosen phlegm and thin bronchial secretions in patients with stable chronic bronchitis." (See comment 7 above.)

### III. The Agency's Final Conclusions on OTC Expectorant Drug Products

Based on the available evidence, the agency is issuing a final monograph establishing conditions under which OTC expectorant drug products are generally recognized as safe and effective and not misbranded. Specifically, the only monograph ingredient for expectorant use is guaifenesin. All other ingredients for expectorant use that were considered in this rulemaking are considered nonmonograph ingredients, i.e., antimony potassium tartrate, chloroform, iodides (calcium iodide anhydrous, hydriodic acid syrup, iodized lime, potassium iodide), ipecac fluidextract, squill preparations (squill, squill extract), turpentine oil (spirits of turpentine), ammonium chloride, beechwood creosote, benzoin preparations (compound tincture of benzoin, tincture of benzoin), camphor, eucalyptol/eucalyptus oil, horehound, ipecac syrup, menthol/peppermint oil, pine tar preparations (extract white pine compound, pine tar, syrup of pine tar, compound white pine syrup, white pine), potassium guaiacolsulfonate, sodium citrate, terpin hydrate preparations (terpin hydrate, terpin hydrate elixir), and tolu preparations (tolu, tolu balsam, tolu balsam tincture). Any drug product

marketed for use as an OTC expectorant drug product that is not in conformance with the monograph (21 CFR Part 341) may be considered a new drug within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(p)) and misbranded under section 502 of the act (21 U.S.C. 352) and may not be marketed for this use unless it is the subject of an approved application. An appropriate citizen petition to amend the monograph may also be submitted under 21 CFR 10.30.

No comments were received in response to the agency's request for specific comment on the economic impact of this rulemaking (47 FR 30009). The agency has examined the economic consequences of this final rule in conjunction with other rules resulting from the OTC drug review. In a notice published in the *Federal Register* of February 8, 1983 (48 FR 5806), the agency announced the availability of an assessment of these economic impacts. The assessment determined that the combined impacts of all the rules resulting from the OTC drug review do not constitute a major rule according to the criteria established by Executive Order 12291. The agency therefore concludes that no one of these rules, including this final rule for OTC expectorant drug products, is a major rule.

The economic assessment also concluded that the overall OTC drug review was not likely to have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Pub. L. 96-354. That assessment included a discretionary Regulatory Flexibility Analysis in the event that an individual rule might impose an unusual or disproportionate impact on small entities. However, this particular rulemaking for OTC expectorant drug products is not expected to pose such an impact on small businesses. Therefore, the agency certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

#### List of Subjects in 21 CFR Part 341

Expectorant drug products, Labeling, Over-the-counter drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and the Administrative Procedure Act, Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:



**PART 341—COLD, COUGH, ALLERGY,  
BRONCHODILATOR, AND  
ANTIASTHMATIC DRUG PRODUCTS  
FOR OVER-THE-COUNTER HUMAN  
USE**

1. The authority citation for 21 CFR Part 341 continues to read as follows:

Authority: Secs. 201(p), 502, 505, 701, 52 Stat. 1041-1042 as amended, 1050-1053 as amended, 1055-1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371); 5 U.S.C. 553; 21 CFR 5.10 and 5.11.

2. Section 341.3 is amended by adding new paragraph (d) to read as follows:

**§ 341.3 Definitions.**

(d) *Expectorant drug*. A drug taken orally to promote or facilitate the removal of secretions from the respiratory airways.

3. Section 341.18 is added to Subpart B to read as follows:

**§ 341.18 Expectorant active ingredient.**

The active ingredient of the product is guaifenesin when used within the dosage limits established in § 341.78(d).

4. Section 341.78 is added to Subpart C to read as follows:

**§ 341.78 Labeling of expectorant drug products.**

(a) *Statement of identity*. The labeling of the product contains the established name of the drug, if any, and identifies the product as an "expectorant."

(b) *Indications*. The labeling of the product states, under the heading "Indications," the following: "Helps loosen phlegm (sputum) and thin bronchial secretions to" (select one or more of the following: "rid the bronchial passageways of bothersome mucus," "drain bronchial tubes," and "make coughs more productive"). Other truthful and nonmisleading statements, describing only the indications for use that have been established and listed in this paragraph (b), may also be used, as provided in § 330.1(c)(2) of this chapter, subject to the provisions of section 502 of the act relating to misbranding and the prohibition in section 301(d) of the act against the introduction or delivery for introduction into interstate commerce of unapproved new drugs in violation of section 505(a) of the act.

(c) *Warnings*. The labeling of the product contains the following warnings, under the heading "Warnings":

(1) "Do not take this product for persistent or chronic cough such as occurs with smoking, asthma, chronic bronchitis, or emphysema, or where cough is accompanied by excessive phlegm (sputum) unless directed by a doctor."

(2) "A persistent cough may be a sign of a serious condition. If cough persists for more than 1 week, tends to recur, or is accompanied by a fever, rash, or persistent headache, consult a doctor."

(d) *Directions*. The labeling of the product contains the following information under the heading "Directions" for products containing guaifenesin identified in § 341.18: Adults and children 12 years of age and over: oral dosage is 200 to 400 milligrams every 4 hours not to exceed 2,400 milligrams in 24 hours. Children 6 to under 12 years of age: oral dosage is 100 to 200 milligrams every 4 hours not to exceed 1,200 milligrams in 24 hours. Children 2 to under 6 years of age: oral dosage is 50 to 100 milligrams every 4 hours not to exceed 600 milligrams in 24 hours. Children under 2 years of age: consult a doctor.

(e) The word "physician" may be substituted for the word "doctor" in any of the labeling statements in this section.

5. Section 341.90 is amended by adding paragraph (d) to read as follows:

**§ 341.90 Professional labeling.**

(d) *The following labeling indication may be used for products containing guaifenesin identified in § 341.18 when used as a single ingredient product.* "Helps loosen phlegm and thin bronchial secretions in patients with stable chronic bronchitis."

Dated: November 9, 1988.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 89-4517 Filed 2-27-89; 8:45 am]

BILLING CODE 4160-01-M



The American Medical Association is a non-profit corporation organized for the purpose of promoting the interests of the medical profession and the public. It was organized in 1847 and has since that time been the leading organization of the medical profession in the United States. The Association is composed of more than 50,000 members, who are physicians, surgeons, dentists, and other medical practitioners. The Association's principal activities are the publication of the Journal of the American Medical Association, the holding of annual conventions, and the representation of the medical profession in legislative and executive bodies. The Association is also engaged in a wide variety of other activities, including the promotion of medical research, the improvement of medical education, and the advancement of the public health. The Association's efforts are directed towards the betterment of the medical profession and the service of the community.

The Journal of the American Medical Association is a weekly publication that contains a wide variety of articles and reports. The articles are written by leading medical authorities and cover a wide range of topics, including the latest medical research, the practice of medicine, and the history of the medical profession. The reports are prepared by the Association's various committees and departments and deal with the Association's activities and the state of the medical profession. The Journal is a valuable source of information for medical practitioners and the public alike. It is also a valuable tool for the Association in its efforts to promote the interests of the medical profession and the public.

The Association's annual convention is one of the most important events in the medical profession's calendar. It is held in a different city each year and attracts thousands of medical practitioners from all over the United States. The convention is a time for medical practitioners to meet and discuss the latest medical research and the practice of medicine. It is also a time for the Association to hold its annual business meeting and to elect its officers and directors. The convention is a valuable opportunity for medical practitioners to learn about the latest medical developments and to share their own experiences and ideas.



# Register

Tuesday  
February 28, 1989

## Part VI

### Federal Emergency Management Agency

44 CFR Part 352

**Commercial Nuclear Power Plants;  
Emergency Preparedness Planning; Final  
Rule**



# FEDERAL EMERGENCY MANAGEMENT AGENCY

## 44 CFR Part 352

[Docket No. 352 INT.]

### Commercial Nuclear Power Plants; Emergency Preparedness Planning

**AGENCY:** Federal Emergency Management Agency.

**ACTION:** Interim rule.

**SUMMARY:** This rulemaking adopts a new Part in Title 44 CFR Emergency Management and Assistance, Chapter 1, Federal Emergency Management Agency (FEMA), Subchapter E Preparedness. New Part 352 concerns licensee certification and determinations and provisions of Federal assistance for offsite radiological emergency planning and preparedness for commercial nuclear power plants under Executive Order 12657. This part responds to a requirement in section 6(a) of the Order that FEMA issue directives and procedures to implement the Order. This part is intended to ensure that plans and procedures are in place to respond to radiological emergencies at commercial nuclear power plants in operation or under construction. Part 352 consists of two Subparts, A and B. This rulemaking was developed by an FEMA/Nuclear Regulatory Commission (NRC) staff task force.

#### Subpart A: Certifications and Determinations

This Subpart establishes policies and procedures for submission by a commercial nuclear power plant licensee of a certification for Federal assistance under Executive Order 12657. It contains policies and procedures for FEMA's determination, with respect to a certification. It establishes a framework for providing formal Federal assistance to licensees. It also provides procedures for review and evaluation of the adequacy of licensee offsite radiological emergency planning and preparedness.

#### Subpart B: Federal Participation

This Subpart establishes policies and procedures for providing Federal support for offsite radiological emergency planning and preparedness in a situation when such support under E.O. 12657 has been requested. It describes the process for providing Federal facilities and resources to a nuclear power plant licensee after an affirmative determination on the licensee certification under Subpart A. It describes response functions which Federal agencies might provide and the

process for allocating responsibilities among Federal agencies through the Federal Radiological Preparedness Coordinating Committee (FRPCC) and Regional Assistance Committees (RACs).

**DATES:** This is an interim rule. It is effective March 30, 1989. However, public comment is requested. These comments should be submitted in writing to the address listed below no later than May 1, 1989. Upon completion of the comment period a review of the docket will be made and as appropriate, amendments to the rule adopted.

**FOR FURTHER INFORMATION CONTACT:** Craig S. Wingo, Chief, Technological Hazards Division, State and Local Programs and Support Directorate, Washington, DC 20472, (202) 646-3026.

**ADDRESS:** Written comments should be submitted to Rules Docket Clerk, FEMA, Room 840, 500 C Street, SW., Washington, DC 20472. The Docket is open for inspection and copying, during normal business hours, Monday thru Friday 8:30 am-5:00 pm—holidays excepted.

#### SUPPLEMENTARY INFORMATION:

##### Background

An integrated approach to the development of offsite radiological emergency planning, preparedness and response involving licensees and State and local governments, voluntary organizations and the Federal Government is the approach most likely to provide the best protection to the public. To carry out the foregoing, FEMA is engaged in a cooperative effort with licensees and State and local governments and other Federal agencies in the development of State and local plans and preparedness to cope with radiological emergencies at commercial nuclear power facilities. These activities are described in 44 CFR Part 350, "Review and Approval of State and Local Radiological Emergency Plans and Preparedness" and Part 351, "Radiological Emergency Planning and Preparedness," which sets out Federal agency roles and assigns tasks for assisting State and local governments.

In the event of an actual radiological emergency, the Federal Radiological Emergency Response Plan (FRERP) provides for the overall Federal support to State and local governments for all types of radiological incidents including those occurring at nuclear power plants. The FRERP was published in the *Federal Register* on November 8, 1985 (50 CFR Part 46542).

#### Discussion

On November 18, 1988, the President issued Executive Order 12657 (53 FR 47513) "Federal Emergency Management Agency Assistance in Emergency Preparedness Planning at Commercial Nuclear Power Plants."

The Executive order was issued to ensure that adequate offsite radiological emergency planning and preparedness is in place at commercial nuclear power plants to satisfy the emergency planning requirements of the NRC for the issuance or retention of operating licenses. The order applies to those situations where State and local governments, either individually or together, decline or fail to prepare commercial nuclear power plant radiological emergency preparedness plans that are sufficient to meet NRC licensing requirements or to participate adequately in the preparation, demonstration, testing, exercise or use of such plans.

As required by section 2(b)(2) of Executive Order 12657, "[i]n carrying out any of its responsibilities under this order, FEMA . . . shall take care not to supplant State and local resources. FEMA shall substitute its own resources for those of the State and local governments only to the extent necessary to compensate for the nonparticipation or inadequate participation of those governments, and only as a last resort after appropriate consultation with the Governors and responsible local officials in the affected area regarding State and local participation."

Executive Order 12657 directs FEMA to undertake three basic functions in a "decline or fail" circumstance: (1) To assist the licensee in the development of an emergency response plan; (2) to participate in the testing and other activities designed to ensure that the plan can be effectively implemented in the event of an emergency; and (3) to prepare for and to undertake, if necessary, an operational role in responding to an emergency. An undertaking by FEMA of the first two of those functions is not dependent on a request from State or local government officials. As recognized in this regulation (44 CFR 352.5(c)(2)), the "realism doctrine" assumes that in the event of an actual radiological emergency State and local officials will make their best efforts to protect the public, including requesting Federal assistance if necessary. FEMA's operational function in the event of an emergency is premised on the "realism doctrine."



Upon certification in writing to FEMA by a licensee of non-participation or inadequate participation by State or local governments, the Director of FEMA is authorized to take actions to provide the appropriate Federal assistance.

This regulation supports the amendments made to NRC's rule, 10 CFR 50.47 (c)(1) and 10 CFR Part 50, Appendix E, Section IV.F., effective December 13, 1987, (52 FR 42078) for those situations where State or local governments decline or fail to participate in radiological emergency planning and preparedness.

In connection with nuclear power plant licensing, FEMA has previously entered into a Memorandum of Understanding (MOU) (50 FR 15485, April 18, 1985) with the NRC, under which FEMA will furnish assessments and findings and determinations as to whether or not offsite emergency plans and preparedness are adequate and continue to be capable of implementation (e.g., adequacy and maintenance of procedures, training, resources, staffing levels and qualification and equipment adequacy). These assessments, findings and determinations will be used by the NRC in connection with its own licensing and regulatory responsibilities. FEMA will support these assessments, findings and determinations in the NRC licensing process and related administrative and court proceedings (See 10 CFR Part 50).

FEMA's procedures for processing and making determinations on licensee certification requests under this regulation are described as follows: Upon receipt of a licensee certification, FEMA will evaluate the certification as to whether it meets the criteria of "decline or fail" as used in section 1(a) of Executive Order 12657. Upon an affirmative determination, FEMA will begin providing advice to the licensee. A separate FEMA evaluation will focus on the licensee's request for Federal facilities and resources.

If an affirmative determination is made that Federal facilities and resources are needed, then FEMA will initiate actions to provide these facilities and resources under Subpart B. During this process, FEMA will seek advice from the NRC as to whether or not the licensee has maximally utilized its resources and the extent to which the licensee has complied with 10 CFR 50.47(c)(1).

This regulation also provides the framework for FEMA's review and evaluation of licensee offsite radiological emergency planning and preparedness. Specifically, FEMA will conduct its review and evaluation

activities under 44 CFR Part 352 in a manner consistent with 44 CFR Part 350 to the extent those policies and procedures are appropriate and not inconsistent with the intent of Executive Order 12657. Any apparent inconsistencies or incongruities between the "350 process" and the review and evaluation under 44 CFR Part 352 shall be resolved through the FEMA/NRC steering committee within the framework of the NRC/FEMA MOU.

Federal policies and procedures for ensuring that plans and procedures are in place to respond to radiological emergencies at commercial nuclear power plants are covered by several existing documents. In addition to the FEMA and NRC regulations, the NRC/FEMA MOU on planning and preparedness and the FRERP, these documents include: The joint FEMA/NRC "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants" [NUREG-0654/FEMA-REP-1, Rev. 1 and Supp. 1] and the NRC/FEMA MOU for incident response. Except for Supplement 1, these documents pertain to situations where State and local governments participate in radiological emergency planning and preparedness. Those policies and procedures pertain to situations in which State and local governments participate adequately in the emergency planning process and have produced response plans which meet NRC licensing requirements. In those instances, Federal agencies provide assistance directly to the State and local governments. Supp. 1 to NUREG-0654 applies to utility plans only.

This regulation identifies a mechanism for consulting with Federal agencies as participants in the proceedings of the FRPCC and the RACs which were established by 44 CFR Part 351. Such consultations address the best way to apply Federal facilities and resources. The functions of the FRPCC and the RACs are expanded to include providing advice to FEMA regarding provision to and use of Federal technical assistance, facilities, and resources by affected licensees.

In the event of an actual radiological emergency, E.O. 12657 requires FEMA to take all steps necessary for ensuring the implementation of plans developed under the order; and to coordinate the actions of other Federal agencies in achieving maximum effectiveness of Federal efforts in responding to the emergency. Planned response functions of Federal agencies are needed to ensure that the Federal government is prepared to assume any and all

functions and undertakings necessary to provide adequate protection of the public in cases within the scope of this Executive order. In the event of an actual emergency, FEMA will coordinate with the State and local governmental authorities and undertake offsite response functions as may be needed. FEMA will transfer such functions to State and local governments when they exercise their authority and related response functions.

The Executive order also requires FEMA to assume any necessary command and control function, or to delegate it to another Federal agency, in the event that no competent State and local authority is available to perform such function. Federal planning for this contingency will be accommodated in the next revision of the Federal Radiological Emergency Response Plan.

The Executive order makes provision for FEMA, to the extent permitted by law, to obtain full reimbursement for services performed by FEMA or other Federal agencies pursuant to E.O. 12657 from any affected licensee and from any affected, non-participating or inadequately participating State and local government. The policy and procedures for the reimbursement process will be covered in a separate regulation to be published in the Federal Register.

Section 6 of Executive Order 12657 states that FEMA shall issue interim and final directives and procedures implementing the order as expeditiously as is feasible, and in any event, shall issue interim directives and procedures not more than 90 days following the effective date of this order and shall issue final directives and procedures not more than 180 days following the effective date of this order which is November 18, 1988.

In order to meet these deadlines, FEMA is issuing this regulation as an interim rule with a request for public comment instead of issuing a proposed rule with request for comment followed by a final rule. Meeting executive order deadlines is considered good cause for not issuing the rules as a proposed rule with a sixty day comment period. In accordance with 44 CFR 1.4 (c), (e) and (f), such notice and public procedure is omitted as impractical or unnecessary. In lieu of this omission public comment is requested on the interim rule and FEMA will conduct full rulemaking including review and action on the comments to the same extent as if this were a proposed rule.

The assistance described in this Part is not Federal financial assistance described in 44 CFR Part 4 and, thus,



does not require use of the intergovernmental review procedure described therein.

#### Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Director has certified that this rule will not have a significant economic impact upon a substantial number of small entities. The rule places obligations and burdens only on nuclear power plant licensees which are electric utility companies dominant in their service areas. These licensees are not "small entities" as set forth in the Regulatory Flexibility Act and do not meet the small business size standards [set forth in Small Business Administration regulations in 13 CFR Part 121.] A copy of the certification, and attendant material is available for inspection and copying in the Rules Docket.

#### Environmental Assessment and Finding of No Significant Environmental Impact.

The Director has determined under the National Environmental Policy Act of 1969 and FEMA Regulation 44 CFR Part 10, "Environmental Considerations" that this rule is not a major Federal action significantly affecting the quality of the human environment. Therefore, an environmental impact statement is not required. In support of this finding, an environmental assessment has been prepared which is available for inspection and copying for a fee in the Rules Docket.

#### Regulatory Analysis

This rule is not a major rule as the term is used in Executive Order 12291 and implementing OMB guidance. It will not have an annual effect on the economy of \$100 million or more, will not result in a major increase in costs or prices to consumers, individual industries, Federal, State or local agencies, or geographic regions and will not have a significant adverse impact on competition, employment, investment, productivity, innovation or the ability of United States based enterprises to compete with foreign based enterprises in domestic or export markets.

#### Paper Work Reduction Act

This rule contains information requirements that are subject to the Paper Work Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and the OMB implementing regulation 5 CFR Part 1320. These requirements have been submitted to OMB for approval, and the OMB number is 3067-0201.

#### Federalism Executive Order

A Federalism assessment under E.O. 12612 has been prepared and a copy is available for inspection and copying for a fee at the Rules Docket.

#### List of Subjects in 44 CFR Part 352

Nuclear power plants and reactors, radiation protection, Intergovernmental relations and Federal assistance.

Accordingly, Subchapter E Chapter 1, Title 44, Code of Federal Regulations is amended by adding Part 352.

### PART 352—FEDERAL EMERGENCY MANAGEMENT AGENCY ASSISTANCE IN EMERGENCY PREPAREDNESS PLANNING AT COMMERCIAL NUCLEAR POWER PLANTS

#### Subpart A—Certifications and Determinations

##### Sec.

- 352.1 Definitions.
- 352.2 Scope, purpose and applicability.
- 352.3 Licensee certification.
- 352.4 FEMA action on licensee certification.
- 352.5 FEMA determination on the commitment of Federal facilities and resources.
- 352.6 Review and evaluation.

#### Subpart B—Federal Participation

- 352.20 Purpose and scope.
- 352.21 Participating Federal agencies.
- 352.22 Functions of the Federal Radiological Preparedness Coordinating Committee (FRPCC).
- 352.23 Functions of a Regional Assistance Committee (RAC).
- 352.24 Provision of technical assistance and Federal facilities and resources.
- 352.25 Limitation on committing Federal facilities and resources for emergency preparedness.
- 352.26 Arrangements for Federal response in the Licensee Offsite Emergency Response Plan.
- 352.27 Federal role in the emergency response.
- 352.28 Reimbursement.

**Authority:** Federal Civil Defense Act of 1950, as amended [50 U.S.C. App. 2251 *et seq.*]; Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.*; 31 U.S.C. 9701 *et seq.*; Executive order 12657; Executive Order 12148; Executive Order 12127 and Executive Order 12241.

#### Subpart A—Certifications and Determinations

##### § 352.1 Definitions.

As used in this Part, the following terms and concepts are defined:

(a) *Associate Director* means the Associate Director, State and Local Programs and Support, FEMA or designee.

(b) *Director* means the Director, FEMA or designee.

(c) *EPZ* means Emergency Planning Zone.

(d) *FEMA* means the Federal Emergency Management Agency.

(e) *NRC* means the Nuclear Regulatory Commission.

(f) *Regional Director* means the Regional Director of FEMA or designee.

(g) *Local government* means boroughs, cities, counties, municipalities, parishes, towns, townships or other local jurisdictions within the plume and ingestion exposure pathway EPZs that have specific roles in emergency planning and preparedness.

(h) *Decline or fail* means a situation where State or local governments do not participate in preparing offsite emergency plans or have significant planning or preparedness inadequacies and have not demonstrated the commitment or capabilities to correct those inadequacies so as to satisfy NRC licensing requirements.

(i) *Governor* means the Governor of a State or his/her designee.

(j) *Certification* means the written justification by a licensee of the need for Federal compensatory assistance. This certification is required to activate the Federal assistance under this Part.

(k) *Responsible local official* means the highest elected official of an appropriate local government.

(l) *Technical assistance* means services provided by FEMA and other Federal agencies to facilitate offsite radiological emergency planning and preparedness such as: Provision of support for the preparation of offsite radiological emergency response plans and procedures; FEMA coordination of services from other Federal agencies; provision and interpretation of Federal guidance; provision of Federal and contract personnel to offer advice and recommendations for specific aspects of preparedness such as alert and notification and emergency public information.

(m) *Federal facilities and resources* means personnel, property (land, buildings, vehicles, equipment), and operational capabilities controlled by the Federal government related to establishing and maintaining radiological emergency response preparedness.

(n) *Licensee* means the utility which has applied for or has received a license from the NRC to operate a commercial nuclear power plant.

(o) *Reimbursement* means the payment to FEMA/Federal agencies, jointly or severally, by a licensee and State and local governments for assistance and services provided in processing certifications and



implementing Federal compensatory assistance under Part 352.

(p) *Host FEMA Regional Office* means the FEMA Regional Office that has primary jurisdiction by virtue of the nuclear power plant being located within its geographic boundaries.

(q) *Command and control* means making and issuing protective action decisions and directing offsite emergency response resources, agencies, and activities.

#### § 352.2 Scope, purpose and applicability.

(a) This Part applies whenever State or local governments, either individually or together, decline or fail to prepare commercial nuclear power plant offsite radiological emergency preparedness plans that are sufficient to satisfy NRC licensing requirements or to participate adequately in the preparation, demonstration, testing, exercise, or use of such plans. In order to request the assistance provided for in this Part, an affected nuclear power plant applicant or licensee shall certify in writing to FEMA that the above situation exists.

(b) The purposes of this Part are as follows: (1) To establish policies and procedures for the submission of a licensee certification for Federal assistance under Executive Order 12657, (2) set forth policies and procedures for FEMA's determination to accept, accept with modification or reject the licensee certification, (3) establish a framework for providing Federal assistance to licensees and (4) provide procedures for the review and evaluation of the adequacy of offsite radiological emergency planning and preparedness. Findings and determinations on offsite planning and preparedness made under this Part are provided to the NRC for its use in the licensing process.

(c) This Part applies only in instances where Executive Order 12657 is used by a licensee and its provisions do not affect the validity of the emergency preparedness developed by the licensee independent of or prior to Executive Order 12657.

#### § 352.3 Licensee certification.

(a) A licensee which seeks Federal assistance under this Part shall submit a certification to the host FEMA Regional Director that a decline or fail situation exists. The certification shall be in the form of a letter from the chief executive officer of the licensee. The contents of this letter shall address the provisions set forth in paragraphs (b) and (c) of this Section.

(b) The licensee certification shall delineate why such assistance is needed based on the criteria of decline or fail

for the relevant State or local governments.

(c) The licensee certification shall document requests to and responses from the Governor(s) or responsible local official(s) with respect to the efforts taken by the licensee to secure their participation, cooperation, commitment of resources or timely correction of planning and preparedness failures.

(Approved by the Office of Management and Budget under control number 3067-0201)

#### § 352.4 FEMA action on licensee certification.

(a) Upon receiving a licensee certification, the host Regional Director shall immediately notify FEMA Headquarters of the licensee certification. Within 10 days, the host Regional Director shall acknowledge in writing the receipt of the certification to the licensee.

(b) Within 15 days of receipt of the certification, the Regional Director shall publish a notice in the Federal Register that a certification from the licensee has been received, and that copies are available at the Regional Office for review and copying in accordance with 44 CFR 5.26.

(c) FEMA Headquarters shall notify the NRC of receipt of the certification and shall request advice from the NRC on whether a decline or fail situation exists.

(d) The host FEMA Regional Office shall provide, after consulting with State and responsible local officials, a recommended determination on whether a decline or fail situation exists to the FEMA Associate Director within 20 days of receipt of the licensee certification.

(e) The FEMA Associate Director shall make a final determination on whether a decline or fail situation exists within 30 days of receipt of the licensee certification and shall advise the licensee, NRC, and State and local officials.

#### § 352.5 FEMA determination on the commitment of Federal facilities and resources.

(a) A licensee request for Federal facilities and resources shall document the licensee's maximum feasible use of its resources and its efforts to secure the use of State and local government and of volunteer resources.

(b) Upon a licensee request for Federal facilities and resources, FEMA headquarters shall notify NRC and request advice from the NRC as to whether the licensee has made maximum use of its resources and the extent to which the licensee has complied with 10 CFR 50.47(c)(1). The

host FEMA Regional Director shall make a recommendation to the FEMA Associate Director on whether the provision of these facilities and resources is warranted. The FEMA Associate Director shall make a final determination as to whether Federal facilities and resources are needed.

(c) In making the determination under paragraph (b) of this Section, FEMA:

(1) Shall work actively with the licensee, and before relying upon any Federal resources, shall make maximum feasible use of the licensee's own resources, which may include agreements with volunteer organizations and other government entities and agencies.

(2) Shall assume that, in the event of an actual radiological emergency or disaster, State and local authorities would contribute their full resources and exercise their authorities in accordance with their duties to protect the public from harm and would act generally in conformity with the licensee's radiological emergency preparedness plan.

(d) The FEMA Associate Director shall make a final determination on the need for and commitment of Federal facilities and resources. The FEMA determination shall be made in consultation with affected Federal agencies and in accordance with 44 CFR 352.21. FEMA shall inform the licensee in writing of the Federal support which will be provided. This information shall identify Federal agencies that are to provide Federal support, the extent and purpose of the support to be provided, the Federal facilities and resources to be committed and the limitations on their use. The provision of the identified Federal support shall be made under the policies and procedures of Subpart B of this Part.

#### § 352.6 Review and evaluation.

FEMA shall conduct its activities and make findings under this Part in a manner consistent with 44 CFR Part 350 to the extent that those procedures are appropriate and not inconsistent with the intent and procedures required by E.O. 12657. This order shall take precedence, and any inconsistencies shall be resolved under the procedures in the NRC/FEMA MOU on planning and preparedness.

#### Subpart B—Federal Participation

##### § 352.20 Purpose and scope.

This Subpart establishes policy and procedures for providing support for offsite radiological emergency planning and preparedness in a situation where



Federal support under Executive Order 12657 (E.O. 12657) has been requested. This Subpart:

(a) Describes the process for providing Federal technical assistance to the licensee for developing its offsite emergency response plan after an affirmative determination on the licensee certification under Subpart A (44 CFR 352.4 (d) and (e));

(b) Describes the process for providing Federal facilities and resources to the licensee after a determination under Subpart A (44 CFR 352.5(d)) that Federal resources are required;

(c) Describes the principal response functions which Federal agencies may be called upon to provide;

(d) Describes the process for allocating responsibilities among Federal agencies for planning site-specific emergency response functions; and

(e) Provides for the participation of Federal agencies, including the members of the FRPCC and the RACs.

#### § 352.21 Participating Federal agencies.

(a) FEMA may call upon any Federal agency to participate in planning for the use of Federal facilities and resources in the licensee offsite emergency response plan.

(b) FEMA may call upon the following agencies and others as needed, to provide Federal technical assistance and Federal facilities and resources:

- (1) Department of Commerce;
- (2) Department of Defense;
- (3) Department of Energy;
- (4) Department of Health and Human Services;
- (5) Department of Housing and Urban Development;
- (6) Department of the Interior;
- (7) Department of Transportation;
- (8) Environmental Protection Agency;
- (9) Federal Communications Commission;
- (10) General Services Administration;
- (11) National Communications System;
- (12) Nuclear Regulatory Commission;
- (13) United States Department of Agriculture; and
- (14) Department of Veterans' Affairs.

(c) FEMA is the Federal agency primarily responsible for coordinating Federal assistance. FEMA may enter into Memorandums of Understanding (MOUs) and other instruments with Federal agencies to provide technical assistance and to arrange for the commitment and utilization of Federal facilities and resources as necessary. FEMA also may use a MOU to delegate to another Federal agency, with the consent of that agency, any of the

functions and duties assigned to FEMA. Following OMB review and approval, FEMA will publish such documents in the Federal Register.

#### § 352.22 Functions of the Federal Radiological Preparedness Coordinating Committee (FRPCC).

Under 44 CFR Part 351, the role of the FRPCC is to assist FEMA in providing policy direction for the program of technical assistance to State and local governments in their radiological emergency planning and preparedness activities. Under this Subpart, the role of the FRPCC is to provide advice to FEMA regarding Federal assistance and Federal facilities and resources for implementing Subparts A and B of this Part. This assistance activity is extended to licensees. The FRPCC will assist FEMA in revising the Federal Radiological Emergency Response Plan (FRERP).

#### § 352.23 Functions of a Regional Assistance Committee (RAC).

(a) Under 44 CFR Part 351, the role of a RAC is to assist State and local government officials to develop their radiological emergency plans, to review the plans, and to observe exercises to evaluate the plans. Under Subparts A and B of this Part, these assistance activities are extended to the licensee.

(b) Prior to a determination under Subpart A (44 CFR 352.5(d)) that Federal facilities and resources are needed, the designated RAC for the specific site will assist the licensee, as necessary, in evaluating the need for Federal facilities and resources.

(c) In accomplishing the foregoing, the RAC will use the standards and evaluation criteria in NUREG-0654/FEMA-REP-1, Rev. 1, Supp. 1<sup>1</sup> or approved alternative approaches, and RAC members shall render such technical assistance as appropriate to their agency mission and expertise.

(d) Following a determination under Subpart A (44 CFR 352.5(d)) that Federal facilities and resources are needed, the RAC will assist FEMA in identifying agencies and specifying the Federal facilities and resources which the agencies are to provide.

#### § 352.24 Provision of technical assistance and Federal facilities and resources.

(a) Upon a determination under Subpart A (44 CFR 352.4(e)) that a decline or fail situation exists, FEMA and other Federal agencies will provide technical assistance to the licensee.

(b) The applicable criteria for the use of Federal facilities and resources are

set forth in Subpart A (44 CFR 352.5(c) (1) and (2)). Upon a determination under Subpart A (44 CFR 352.5(d)) that Federal resources or facilities will be required, FEMA will consult with the FRPCC, the RAC, the individual Federal agencies, and the licensee, to determine the extent of Federal facilities and resources that the government could provide, and the most effective way to do so. After such consultation, FEMA will specifically request Federal agencies to provide those Federal facilities and resources. The Federal agencies, in turn, will respond to confirm the availability of such facilities and resources and provide estimates of their costs.

(c) FEMA will inform the licensee in writing of the Federal support which will be provided. This information will identify Federal agencies which are to be included in the plan, the extent and purpose of technical assistance to be provided and the Federal facilities and resources to be committed, and the limitations of their use. The information will also describe the requirements for reimbursement to the Federal government for this support.

(d) FEMA will coordinate the Federal effort in implementing the determinations made under Subpart A (44 CFR 352.5(d)) so that each Federal agency maintains the committed technical assistance, facilities and resources after the licensee offsite emergency response plan is completed. FEMA and other Federal agencies will participate in training, exercises, and drills, in support of the licensee offsite emergency response plan.

(e) In carrying out paragraphs (a) through (c) of this Section, FEMA will keep affected State and local governments informed of actions taken.

(Approved by the Office of Management and Budget under control number 3067-0201)

#### § 352.25 Limitation on committing Federal facilities and resources for emergency preparedness.

(a) The commitment of Federal facilities and resources will be made through the authority of the affected Federal agencies.

(b) In implementing a determination under Subpart A (44 CFR 352.5(d)), that Federal facilities and resources are necessary for emergency preparedness, FEMA shall take care not to supplant State and local resources. Federal facilities and resources shall be substituted for those of the State and local governments in the licensee offsite emergency response plan only to the extent necessary to compensate for the nonparticipation or inadequate participation of those governments, and

<sup>1</sup> Copy available from FEMA Distribution Center, P.O. Box 70274, Washington, DC 20024.



only as a last resort after consultation with the Governor(s) and responsible local officials in the affected area(s) regarding State and local participation.

(c) All Federal planning activities described in this Subpart will be conducted under the assumption that, in the event of an actual radiological emergency or disaster, State and local authorities would contribute their full resources and exercise their authorities in accordance with their duties to protect the public from harm and would act, generally, in conformity with the licensee's offsite emergency response plan.

**§ 352.26 Arrangements for Federal response in the Licensee Offsite Emergency Response Plan.**

Federal agencies may be called upon to assist the licensee in developing a licensee offsite emergency response plan in areas such as:

(a) Arrangements for use of Federal facilities and resources for response functions such as:

- (1) Prompt notification of the emergency to the public;
- (2) Assisting in any necessary evacuation;

(3) Providing reception centers or shelters and related facilities and services for evacuees;

(4) Providing emergency medical services at Federal hospitals; and

(5) Ensuring the creation and maintenance of channels of communication from commercial nuclear power plant licensees to State and local governments and to surrounding members of the public.

(b) Arrangements for transferring response functions to State and local governments during the response in an actual emergency; and (c) Arrangements which may be necessary for FEMA coordination of the response of other Federal agencies.

**§ 352.27 Federal role in the emergency response.**

In addition to the Federal component of the licensee offsite emergency response plan described in Subpart B (§ 352.26), and after complying with E.O. 12657, section 2(b)(2), which states that FEMA: shall take care not to supplant State and local resources and that FEMA shall substitute its own resources for those of State and local governments only to the extent necessary to compensate for the nonparticipation or

inadequate participation of those governments, and only as a last resort after appropriate consultation with the Governors and responsible local officials in the affected area regarding State and local participation, FEMA shall provide for initial Federal response activities, including command and control of the offsite response, as may be needed. Any Federal response role, undertaken pursuant to this section, shall be transferred to State and local governments as soon as feasible after the onset of an actual emergency.

**§ 352.28 Reimbursement.**

In accordance with Executive Order 12657, section 6(d), and to the extent permitted by law, FEMA will coordinate full reimbursement, either jointly or severally, to the agencies performing services or furnishing resources, from any affected licensee and from any affected non-participating or inadequately participating State or local government.

Dated: February 23, 1989.

Julius W. Becton, Jr.,

Director, FEMA.

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